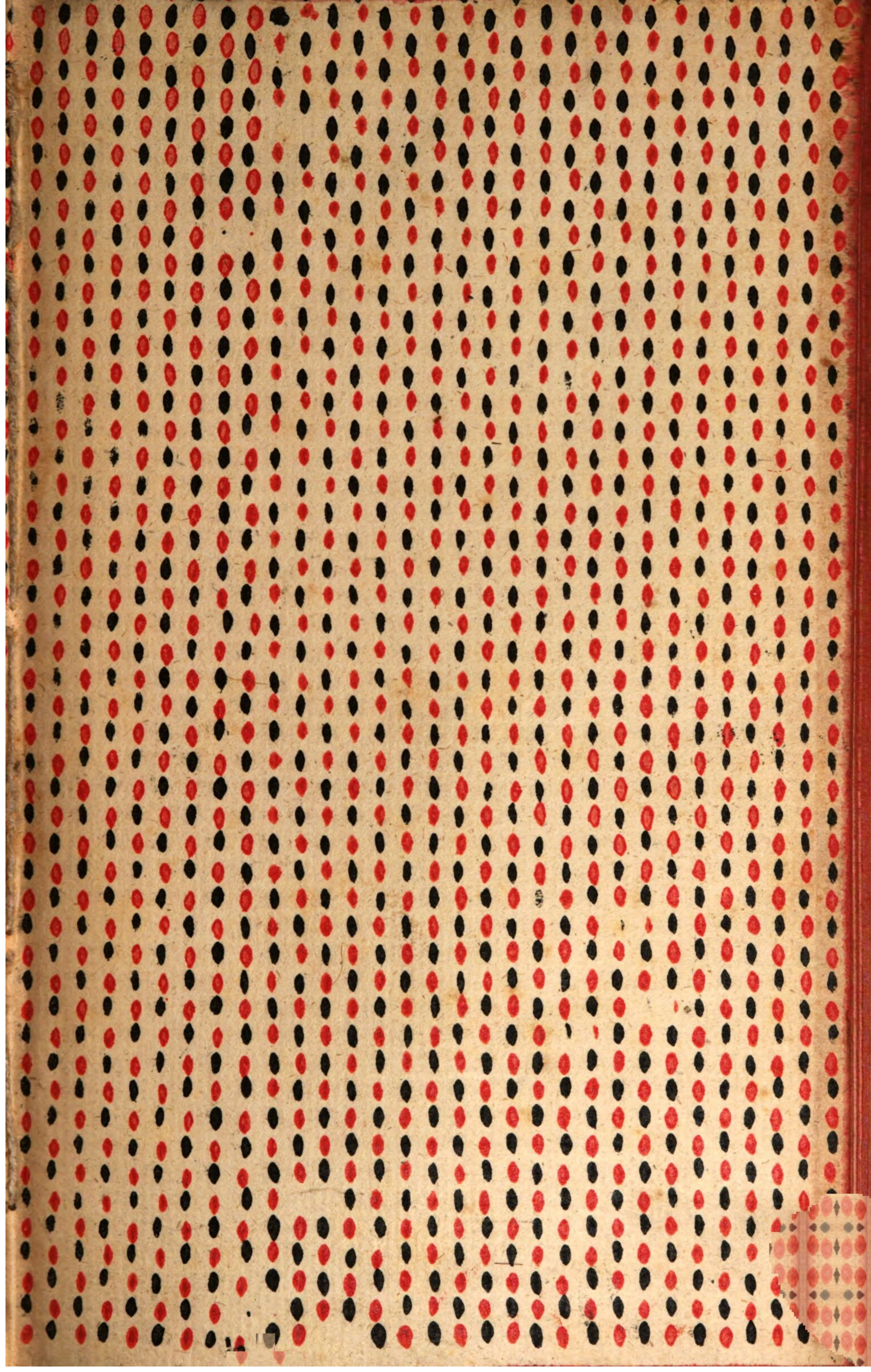
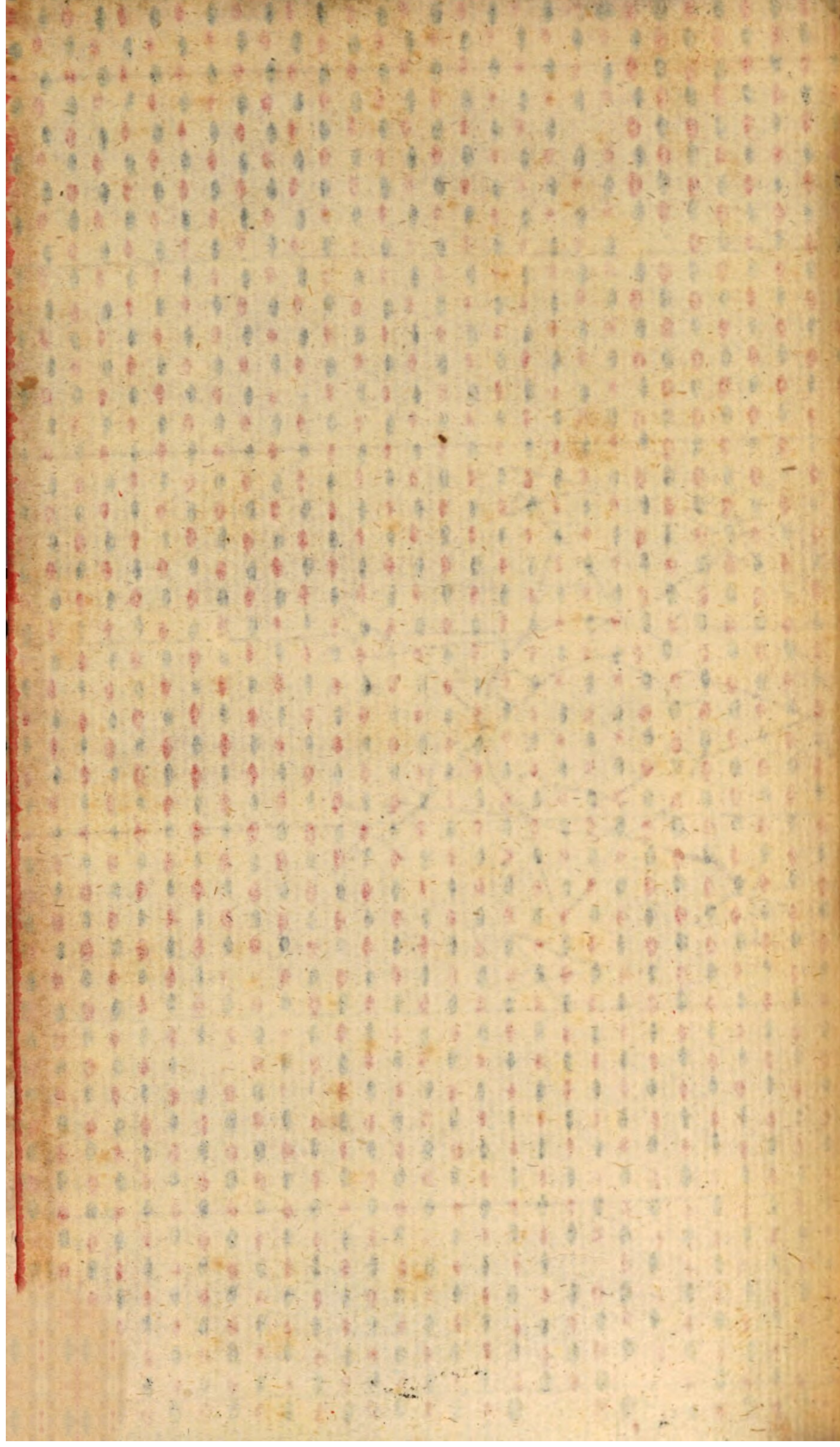








Gal. rev. 599. (6

A
CANDID INQUIRY
INTO
THE NATURE
OF
GOVERNMENT, &c.

A
CANDID INQUIRY

INTO

THE NATURE

OF

GOVERNMENT, &c.

A
CANDID INQUIRY
INTO
THE NATURE
OF
GOVERNMENT,
AND
THE RIGHT
OF
REPRESENTATION.

Turpe esse patricio, et nobile, et causas oranti jus in quo
versantur, ignorare. Scæv. AD SULP.

Et omnes comites et barones unâ voce responderunt,
quod nolunt leges Angliæ mutare, quæ huc usque usitatæ
sunt et approbatæ. 20 H. III. C. 9.

LONDON:

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M,DCC,CXII.

CLAUDE INQUIRY

INTO

THE NATURE

OF

GOVERNMENT,

AND

THE RIGHT



REPRESENTATION

Veritas, ignorare.
Secum ad salutem

Et omnes comites et barones sua voce responderunt,
quod nolumus Angliam regem, qui hoc nomen regis
sunt et imperat.

LONDON:

PRINTED FOR J. OWEN, No. 168, AND J. DEBART,
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MDCCLXXII

P R E F A C E.

THE author of the following sheets would think it might be necessary to apologize for obtruding upon the public any observations on the conduct of the people of France, if there was not too much reason to fear, that the miserable effects of such proceedings, are insufficient to alarm the inhabitants of Great Britain and Ireland, and induce them to take warning from their neighbours misfortunes.

The subversion of all regular government, the violation of property, and the substitution of anarchy and confusion, in the place of order and decency, have been consequent to the attempts towards reformation, by resorting to the original magazine of the power of the people. Prudent men will, therefore, examine, with great caution, every step which may lead to the same consequences. We have seen that this power is so irresistible ; its
a explosion

explosion so violent, that, although it may be necessary it should exist, yet it ought to be deposited in security, and like a magazine of gunpowder, only such small portions of it should be brought forth at a time, as may be necessary for the defence of the fortress in which it is lodged, and under the wise direction of those to whom such defence shall have been committed; for if every common soldier in the garrison shall insist that he and his comrades have a right to enter the place where it is deposited, and to take such part as they judge proper, to be applied by them, according to their pleasure, it is more than probable the magazine would take fire and destroy the fortification, or there would be no means of defence left in case of an attack.

Wherever proper discipline was observed, the man who should seditiously advise the soldiers, that as the defence of the place depends upon their valour and strength, they should, therefore, seize on the arms and ammunition, confided to their guard, would deserve to be hanged for mutiny; and every man in the garrison who was privy to such an attempt, would be considered as an accomplice, unless he should reveal the intended treason, which his duty would

would impel him to do, if he was a good and faithful soldier.

It is, in like manner, the duty of a good subject, and he is bounden by his oath of allegiance to reveal all treason and traitorous conspiracies which he shall know. But although the literal observance of this oath may require only the disclosure of a positive act of treason, yet the spirit in which a loyal subject subscribes to it, imposes upon him a general obligation to make known all efforts and attempts which appear to him to tend, directly or indirectly, to treason or a traiterous conspiracy.

The author, with the concern a good subject ought to feel, sees the same steps taking in this kingdom as preceded the troubles in France. Metaphysical claims of rights, in behalf of the people, which they never did nor can enjoy, but to their destruction; inflammatory and seditious writings, in order to make all ranks of people discontented with their condition, and their rulers; associations and confederacies to overawe and control the deliberations of the representatives of the people, under pretences of the expressed will of their constituents, when such pretended expression of their will is obtained by

tho' most shameful means, and false representations. An affected regard for humanity and justice, an attention to the civil and religious rights of the people, and the support of the principles of the constitution they endeavour to undermine and destroy; have always been the pretences of those, who have sought to make innovation in government; and it is really worth while to turn our regards on the particular facts recorded in our own histories, and those of France, and compare them with what has lately been practised in the latter kingdom, and what appears to be now attempting in Great Britain and Ireland; and it is also remarkable, that such attempts to reformation in the one, have generally been followed by the like, in the neighbouring kingdom.

In the fourteenth century, complaints were made in France of the inequality of the conditions of man. In consequence, the personal services of the Serfs, the labour of the peasants, in reparation of the public roads, the rights of chase, of warrens, and other feudal privileges were abolished; the sovereign authority was trampled on, the nobility were murdered, their estates plundered, and their houses burnt. All subordination was at an end. The

troops

troops no longer obeyed their officers, and the country was a scene of pillage, violation, and murder. A civil war was the consequence, and after much distress and bloodshed, government returned into its former channel, and the disturbers of the public tranquillity met with the punishment they merited.

A few years afterwards the same troubles commenced in England. The assertor of the Rights of Man of that day, the famous Wat, the tyler, demanded the affranchisement of the Serfs, the destruction of nobility, (of whom as many as fell into his hands he put to death) free liberty of conscience, and equality of all ranks and conditions, and an equal participation of the goods of fortune.

The same mischiefs, and from nearly the same causes, and the same pretences of reformation, and the public benefit and advantage of the nation, happened in France, the latter end of the sixteenth century.

The confusions and troubles there, a few years afterwards, were followed with similar ones in England, when monarchy and nobility were again attacked and destroyed, and their estates plundered
and

and confiscated. The same murders, massacres, rapine, and civil wars in each country, were followed by a re establishment of the former governments.

What will be the consequence of the late commotions and distractions of France, we can only guess at. They have hitherto been attended with the same mischiefs which happened in the four last centuries; and the same remedy, a civil war, seems to be at hand.

To avert such misfortunes from the good people of this kingdom, as have always heretofore followed close upon those which happened in France; the author has endeavoured to shew that the pretended causes of complaint, which have been held out as justifying what has passed there, do not exist in England, or are not injurious to the people, or inferior part of the community. That distinctions among mankind, both in respect to property and power, ever did, and always must exist in every country; and that, therefore, it is the duty of every good subject, to stand forth in support of the government and constitution of this kingdom, and be upon
his

his guard against the insinuations of those who pretend to complain of, or to reform either.

It is hoped the following sheets will serve as a caution to our countrymen to avoid connecting themselves with any of the confederacies established under pretence of humanity, justice, and religion, a regard for which have always been the avowed motives of the actions of those who wish to overturn government, in order to possess the reins of it themselves.

The HUMANE SOCIETY, in the OLD JEWRY, by every species of falsehood and misrepresentation, have imposed upon the credulity of the good people of this country, and by sending abroad mutilated and garbled extracts of evidence, have induced them to petition for the abolition of a commerce they have not the least knowledge of, in opposition to the decision of the representatives of the people last year.

This, however, appears to be merely a pretence to obtain popularity; a boast is now made that the means of procuring petitions are known, and that they can be easily obtained for any purposes the party think proper. The abolition of the Test and Corporation
ration

ration AEs is in contemplation ; by the same means the suppression of tythes, and a change in the legislature, are to be next attempted ; the destruction of nobility and monarchy are probably the ultimate views of all the confederacies, known by the names of Humane, Revolution, Constitutional and Whig Societies. The regular correspondence established by these people, by means of emissaries, expressly sent to the remotest villages of the kingdom ; the inflammatory and seditious papers and advertisements, in all the public prints, recommending books and pamphlets, pregnant with doctrines which inculcate the most pernicious principles, bear too near a resemblance to similar proceedings of the club of the JACOBINS in PARIS, (who, by establishing corresponding societies of a like nature, in all the towns in France, have been able to carry their pernicious designs into execution) not to render the apprehensions of similar consequences well founded, especially when like attempts to corrupt the army are publicly and notoriously made.

*If our British system stood in need of alteration, it would be extreme folly for us to take example from
a neigh-*

a neighbouring people, labouring under the paroxysm of democratic phrenzy; if we must borrow plans of reform, it would at least be wiser to wait with patience the hour of returning sanity, and to prefer the temperate results of sedate reflection, before the crude and incoherent ebullitions of a feverish delirium; but the heated brains of our pseudo philosophers deem it necessary that we should run mad in order to grow rational. Outrage is pointed out as the true path of peace; ruin is to be the threshold of happiness. Their political fanaticism demands an immediate surrender of our reason, as the condition of our acquiring the new intellectual light. With these wonderful sages, every kind of means, however base, however vicious and unfair, is justified by the end. Perversions of fact; suppression of truth; wild, factious and savage calumnies; what Christianity forbids, and honour revolts at, are among the arts by which, under the mask of religion, conscience and humanity, these hypocrites have surprised and led captive some of the best heads and hearts of the nation.

If we were even to grant these reformers the very principles, for which they contend, they would not be able to describe how far the reform ought to go; at what point it should stop; nor how far the slightest breach, in one part, might affect the stability of others, not in sight, or occasion a general subversion.

It cannot, therefore, be too strongly impressed upon the public mind, that abstract propositions which relate to government, if rational and good, when they promote or preserve social order, are vicious and detestable when they tend to disturb and destroy it.

Under the present causes of apprehension, diffidence ceases to be laudable, and silence becomes criminal. The author stands forth to sound the alarm among his countrymen, because in doing so, he thinks he is discharging his duty; and for the conscientious discharge of duty to the public, no apology can be expected.

*It is high time we should learn to distinguish real friends from concealed enemies, “ For no
“ man*

“ man is so great an enemy to public peace, as
“ one who fills weak heads with imaginary
“ claims, and breaks the series of civil subor-
“ dination, by inciting the lower classes of mankind
“ to encroach upon the higher.”

If the author has the satisfaction to find his attempt to prevent the mischiefs which such proceedings lead to, successful, he will think he has well employed his time, and done his duty as a good and faithful subject.

E R R A T A:

Page 36, line 6, after *the* read *present*

69, — 5, for *lands* read *land*

72, — 24, for *Sareere* read *Sancere*

73, — 3, for *these with* read *therewith*

77, — 3, for *which* read *who*

118, — 19, for *price* read *prices*

120, — 25, for *The* read *This*

126, — 8, after *provisions* read *were*

147, — 5, for *most* read *must*

161, — 2, for *tractatura* read *tracturi*

A CANDID INQUIRY, &c.

CHAP. I.

ON THE DECLARATIONS OF THE RIGHTS OF MAN.

THE famed and boasted constitution of France is at length finished. The King has sanctioned it with a solemn and deliberate acceptance, and it remains to be proved how far the nation will be benefited by the very extraordinary change in the form of its government.

It is not my business or intention to discuss the subject, in the investigation of which so many abler men have employed themselves! ‘ Whether it is practicable
‘ to govern so great a nation in the manner directed by the new laws? Whether
‘ it is the common cause of all monarchs
‘ to restore Lewis XVI. to the exercise of

B

‘ his

‘ his former prerogatives, or any part of
 ‘ them? Or whether the powers who are
 ‘ said to have united themselves for such
 ‘ a purpose, will be likely to succeed in
 ‘ the attempt? are to me alike indifferent,
 ‘ at least they form no part of my present
 ‘ consideration.’

I do not, however, think it will be un-
 serviceable to my country, to remark on
 such particular parts of this boasted code,
 and the foundations on which it is built,
 as may be held out as models to the imi-
 tation of those lovers of novelty and inno-
 vation, who are continually declaiming
 against the present state of our govern-
 ment, and calling aloud for such a repa-
 ration of the fabrick of our constitution,
 as, in the opinion of sober men, may
 eventually destroy the whole building,
 and reduce it to an heap of ruins. The
 pious and worthy Dr. Priestley, the Mem-
 bers of the *foi-disante* Constitutional So-
 ciety, and of the Humane Society in the
 Old Jewry, perhaps may boast that they
 are the *justi et tenaces* who can behold the
 storm which may overwhelm and destroy
 that political structure, which has so long
 been

been the pride of Britain and the admiration of Europe, not only without fear, but with exultation and applause.

Though I do not mean to find fault with the whole of the laws and institutions of the late National Assembly, many of which are undoubtedly praise-worthy, I hope I may be permitted to say, that if the foundation of a house is bad, it will resemble that built on sand, which,
 “ When the rains descended, when the
 “ floods came, when the winds blew and
 “ beat on that house, it fell, and great
 “ was the fall of it.” Matt. vii. 27.

In order to shew that such part of the French constitution as I mean to consider, is manifestly founded in error and injustice, I shall endeavour to demonstrate, that if those which they assert to be the natural and unalienable Rights of Man are such as they pretend, they have, in the most flagrant manner, been guilty of violating them in many important respects.

If I am able to do this to the satisfaction of my countrymen, they will be justified in concluding that such a super-

structure as has error for its foundation, and injustice for its corner stone, is not solid, and cannot be lasting.

The first article on which the members of the late Assembly have formed their new code, contains an assertion, that
*“ all men are born, and continue free and
 “ equal in rights.”*

In considering this proposition, I mean first to shew that it is manifestly untrue, in the sense in which they have understood it ; and secondly, that they have not acted in conformity to its principles, were they even to be admitted in that unlimited sense.

The members who composed the Assembly, which in the end of the eighteenth century hath made such wonderful and unheard of discoveries in politics, ethics, and religion, have found out that all the public misfortunes which have happened in the world, have originated *solely* from ignorance, forgetfulness, or contempt of the rights of man. Surely these great legislators are mistaken in their assertion. What ! are not famine, pestilence, tempests, earthquakes, hurricanes,

canes, and other dreadful misfortunes with which the Almighty is pleased to visit nations at different periods, to fulfil the wise and just dispensations of his divine providence, public calamities? Could the most intimate knowledge of the rights of man, the most perfect recollection of what we owe one to the other, and the utmost respect for those duties, prevent the misfortunes with which one nation or other is almost every year afflicted, in the different parts of the world?

Continual droughts in the tropical countries; unfavourable seasons, in various parts of Europe, which obstruct vegetation; incessant rains, which prevent fruits coming to maturity; flights of locusts, which devour every green herb, and whatever would serve for the sustenance of man, or other calamities, frequently happen in different kingdoms, when those next adjoining are blessed with seasonable rains, and abound in every necessary; will any pretended rights of man prevent the suffering nation from saying, ' By what right are our neighbours, who
' are exempt from the calamity we have

‘ experienced, to remain in a better condition than ourselves ?’ We are stronger than they are, and we will take from them what is necessary for us, and in so doing, we fulfil the laws of nature, or, at least, (that which is superior to all others) the *law of self-preservation*. In effect, does not this appear to be so plainly one of the first laws of nature, that no declaration made by the representatives of the people of France, formed into a National Assembly, can prevent our thinking it one of the most unalienable and sacred rights of man ? If every man in the state of nature has the unalienable right to provide for his existence, and what he thinks will promote his happiness, by every means in his power, will the ignorance, forgetfulness, or contempt of this right disqualify him for society ? On the contrary, would it not be absolutely necessary he should renounce this right, before he is qualified to be a good member of any society whatever ? It is the remembrance and persuasion of possessing such right, that has always armed one individual, or one community against another.

If

If the recollection of this pretended right were necessary to the happiness of society, or to the individuals who compose it, it would perhaps be proper and useful to inculcate, “ *that all men are born* “ *and continue free ;*” but as the ignorance and forgetfulness of this right, or the contempt and renunciation of it, are absolutely necessary to social happiness, so the declaration, that men are born and continue equal and free in society, is a doctrine as pernicious as it is contrary to fact. A man born free ! Good God, what freedom ! comparatively free no doubt he is born, because he has, before his birth, been imprisoned nine months in his mother’s womb. What says Solomon, whose wisdom is proverbial in every part of the universe where his name is known : “ Man is born to trouble, as the sparks “ fly upwards.”

Let us inquire what is the freedom he is born to ; has he the power of removing himself from the spot where he is produced ? Can he procure himself subsistence ? In short, has he any natural means of continuing his existence ? May I not

ask, therefore, in what does this liberty consist? Is it such as any human being would wish for the continuance of? His faculties feeble and useless. His absolute subjection to the will of his mother or his nurse, is the price at which his existence is preserved to him. This subjection continues, under different modifications, during the first fifteen or twenty years of his life; so that, so far from being born and continuing free, it is not till a period fixed by the laws of the society he is born in, (to which neither by himself nor his representative *he* has given assent) that he is considered in any country, as intitled to exercise that freedom which he is said to have been born to, and continued in the possession of.

Neither is it more true, that in society every one is born equal in rights: an individual newly born may have no rights at all. The father perhaps unknown, or ignorant of his birth; the mother dead, or incapable of supporting or nourishing him; of whom would such a being have *a right* to claim protection, even was he physically capable of asserting such claim?

In

In fociety, are the rights of each individual the fame? Is the infant offspring of the day-labourer or mechanic, whose utmoft efforts fcarcely procure himfelf a fcanty fubfiftence, and who by difeafe or accident may be reduced to rely for his own fupport on the precarious charity of others, born to the fame rights as the infant heir of a great eftate, or as the children of the opulent landholder or merchant? If not, how are the focial diftinctions founded on the general utility of all? Surely the diftinctions of fortune are not lefs the advantage and benefit of particular men, (to the injury of the general mafs of the people,) than thofe diftinctions of men which thefe new legiflators have thought proper to abolifh: therefore, when Locke and Sydney, thofe great affertors of liberty, fpeak of the freedom and equality which are the natural inheritance of man, they muft be underftood to mean, that men are born free and equal, in the fame fenfe that a man is born a reasonable creature. He is born with a capacity to acquire that freedom, and all thofe rights which any other man is capable

Locke on Go-
vernment,
vol. 2, p. 241.

able of enjoying or acquiring. Mr. Locke indeed says expressly, “ Thus we are
“ born free as we are born rational, not
“ that we have actually the exercise of
“ either; age, that brings one, brings
“ with it the other too.” It is in vain we are told that the end of political society is the preservation of such undefined rights as are mentioned. Liberty, in the abstract, is certainly a right of doing whatever the person possessing it thinks proper; and therefore it is, that we so frequently perceive both individuals and communities exercise that right to the prejudice of their neighbours; and in particular, the ends of most national alliances and associations, however veiled under pretences to support the balance of power, or provide for the security of the contracting parties, are intended to restrict the liberties, or invade the properties of their neighbours. Although it is not my intention to enter into an examination of what has passed in *France*, further than may be necessary to shew to the people of this country, the danger of hasty and violent attacks upon any established government,

ment, or to engage in a controversy, when such very able combatants as Mr. Burke, Mr. Calonne, and Mr. Mac Intosh have already taken the field, I may be allowed to make a few remarks on what the latter gentleman says of the estates of the church. He considers priests like soldiers, to be salaried by the state. The one for public defence, the other for public instruction. He asserts, that the mode of paying *such salaries*, has been generally, in rude ages, by land, and in cultivated periods, by money.

Vind. Gall.
p. 86.

“ In the early history of Europe, before
“ fiefs became hereditary, great landed es-
“ tates were bestowed by the sovereign, on
“ condition of military service. By a simi-
“ lar tenure did the church hold its lands.”

ibid. p. 87.

Mr. Mac Intosh allows then, that the ecclesiastical lands were held by a similar tenure; that the fiefs, the great landed estates were held by, by the great feudal chiefs,—viz. the one on condition of military service, the other on the condition of public instruction.

They ought, therefore, if such was really the case, to be properties at least
equally

equally sacred, equally free from the hand of the spoiler. It is true, the land descended differently; the lay fee to the heir, the ecclesiastical to the successor.

Supposing this to be the true state of the case, there is an argument in favour of the latter, which ought to be conclusive, and in the present times, at least, would give them a superior right to undisturbed possession. The ecclesiastical occupants continue to perform the conditions of their tenure, whereas the landholder no longer performs those annexed to the lands, granted him, or his ancestor, or predecessor.

Vind. Gall.
P. 87.

But I beg leave to suggest that Mr. Macintosh is wrong in his assertion that such was the tenure by which the church lands were holden. The lands indeed held by some of the bishops and dignified ecclesiastics, were in former times subject to military tenure: they were baronies, and held in capite *per baroniam*; but the manner in which the state provided for the payment of the priests, to whom the care of the public instruction was committed, was by *Tithes*, and to that part alone of
the

the ecclesiastical fortune, can Mr. Macintosh's arguments be applied. It is well known, that the lands in general possessed by the clergy throughout this kingdom, were the donation of particular persons; and the considerations of the original grants (many of which are still in existence), are expressed therein. In some of them, certain religious duties are to be performed in particular chapels; the right of patronage in others was reserved; which gave an opportunity to the families of the founders to provide for their younger descendants. Corodies or other reservations are contained in some of the grants, for the benefit of the heirs of the grantor: Thus it is most apparent, so far are these lands from being public property, that it is the height of injustice, if they are taken from their present possessors, the clergy, not to restore them to the families, by whose ancestors they were granted.

Perhaps there never has existed in the universe a time, wherein theory and practice have differed more widely, than in the present. The members of the National Assembly of France, after having in the
most

most solemn manner, declared the property of individuals a sacred and unquestionable right, which it is the end of every society to preserve, have, by their subsequent decrees, authorized and commanded a violation of it throughout the empire.—

The clergy have been despoiled, under pretence that the benefices, the lands, and the buildings in their possession, were the property of the public. It is not my intention to combat further the injustice of that position; I shall only observe that, in the hands of their former possessors, their revenues were in a great measure employed in the service of the public, and of that part of the public, which ought particularly to have enjoyed them,—the poor and needy.

Though perhaps some of the dignitaries of the church spent their incomes in a manner much to be lamented, it is notorious to every person acquainted with France, that the poor of that country received the greatest part of their support and comfort, both temporal and spiritual, from religious communities, or from the secular clergy; and it is not to be doubted, but the inability of the clergy to give
the

the same succour to the poor and needy in future, will throw a burthen on the public, the weight of which cannot at present be estimated. Similar causes will always produce similar effects. Before the seizing of the church lands by Henry VIII. the poor of this kingdom were supported as those of France used to be, chiefly by the regular and secular clergy.

* Since the failure of that support, not-with-

* The very year that Henry VIII. suppressed the smaller monasteries, it became necessary to enact laws to provide for the poor; yet beggars multiplied to such a degree, that within five years after the suppression of the greater monasteries, to wit, 1st of Edward VI. the most severe law ever seen in the English Statute Book was framed to suppress them: It enacts,
 “ That a runagate servant, or any other who liveth idly and
 “ loiteringly by the space of three days, being brought before
 “ two justices of the peace, they shall cause him to be marked
 “ with an hot iron on the breast, with the mark V, and adjudge
 “ him to be the slave of him that brought him for two years
 “ after, who shall take the said slave, and give him bread,
 “ water, or small drink, and refuse meat, and cause him to
 “ work, by beating, chaining, or otherwise, in such work and
 “ labour as he shall put him to, be it never so vile; and if
 “ such slave absent himself from his said master, within
 “ the said term of two years, by the space of fourteen
 “ days, then he shall be marked on the forehead, or the ball
 “ of the cheek, with an hot iron, with the mark of an S. and
 “ farther shall be adjudged to be slave to his said master for
 “ ever.

withstanding the many laws made to provide otherwise for the poor, their distresses have augmented; and notwithstanding the numberless contributions of private individuals, the revenues of hospitals, and the many devises and bequests of different people to particular parishes, the whole of the money collected for the maintenance of the poor in this kingdom, including the poor's rate, cannot amount together to less than between three and four millions sterling. What then must the necessary provision for the poor amount to in France, where the people are by no means in such habits of industry, and whose numbers are pretended to triple those of Great Britain; I shall, I say, leave the injustice and impolicy of this measure, so far as it regards the poor, to be treated of by abler pens. There is but little fear
the

“ ever. And if the said slave shall run away the second time,
 “ he shall be adjudged a felon. It shall be lawful to every
 “ person to whom any shall be adjudged a slave, to put a ring
 “ of iron about his neck, arm, or leg.” We are fatally convinced that all the numerous laws which have since been made for the provision of the poor, ineffectually supply the place of those ecclesiastical establishments which render poor laws unnecessary.

the same steps will ever be taken again in this kingdom.

It is for the sake of my countrymen I write, and I shall be happy if I can contribute in any degree to prevent the principles of anarchy and confusion from taking root in this country, which have been so industriously disseminated by the emissaries from the club of the *Propaganda*, established in Paris, and some similar societies among ourselves. Though the clergy of this country have too little left them to excite the avidity of the people, it may not be so with respect to the possessions of landed gentlemen. Great part of the feudal tenures, except absolute vassalage, still exist in this kingdom,* per-
C haps

* I believe Villanage never was expressly repealed by any law, but fell into disuse, as it naturally must do wherever there is a great degree of cultivation. Population will always be in proportion to cultivation, which never can be so well carried on as by freemen, who are always compelled by their necessities to work harder, and at a less expence to their masters, than those who consider their owners as obliged to provide for them, whether they work or not, which is always the case with villains, or persons in servitude; and therefore servitude or villanage always ceases, when persons are to be found who will engage to work for moderate, or reasonable wages. The clamour, therefore, against that servitude in our colonies which
is

haps not so generally nor quite to the same extent as in France before the revolution. The same unjust clamour may be made against the remains of the *supposed barbarous* feudal system as has been made in France, and by people who know as little what that system was, as they did in France, who have abolished and destroyed it as unjust and oppressive. I hope to do some service to my country, by stating briefly the nature and foundation of these tenures; and I trust it will appear, not only that they were just and reasonable, but also that the representation of every person possessed of property in the kingdom, was more perfect formerly, than it ever has been since those tenures have fallen into disuse. It will be likewise evident to any unprejudiced person, who will consider the subject with attention, that there have been continual encroachments made on the property of those who have legally possessed *fiefs* and *seigneuries* from
time

is called slavery, much less severe than that of the ancient serfs, is extremely unjust.

If it were possible that the negroes there could be persuaded or compelled to labour at reasonable prices, their emancipation would follow of course.

time to time, and that in all countries the *people* have rather usurped the property of the lords, than the *lords* oppressed the people.

Dr. Price's
Sermons.

We have heard much of late of the origin of government and of the power of the people, that all government arises from *them*, and that they have a right to chuse and to cashier their governors. We have had these doctrines recommended from the pulpit and the press, but we have not yet had the words *people* or *nation* properly defined.

In all countries the *potior pars* call themselves the nation, and give laws to the rest; the major part of the community scarce ever trouble themselves with the direction of the government; they know themselves to be incapable; that they must be paid the price of their labours let which party soever be uppermost, and it is therefore impossible but the people of property in every country must be the governors; they may be divided into parties, and which ever party is the more powerful will call itself the nation, and with the best possible reason;

Harr. Ocean,
P. 447, 448.

the power of the nation resides in them. Thus though we should be ready to allow that “all power is in the people, yet the
“diffusive body of the people, at least in
“a country of this extent, can never ex-
“ercise any power at all. Hence is the
“necessity of some form of government;
“that is, by a single person,—by an
“assembly consisting of a few,—or by
“an assembly consisting of many.” One
celebrated author indeed, who *formerly*
wrote *common sense*, tells us, that in order
to ascertain beyond contradiction the ori-
gin of government, we must ascend to that
point of time when man came from the
hand of his Maker. Man was then, says
our author, his highest and only title.

“When Adam delved, and Eve span,
“Who was then the gentleman?”

said the famous assertor of the *Rights of Man* on a former occasion;* for notwith-
standing the pretences of our modern phi-
losophers, their system has not even no-
velty to recommend it. Man, however,
soon after he was a husband, became a
father,—thus he became possessed of fur-
ther

ther titles,—he became the lord and governor of his family,—he nourished and protected his children, who in consequence owed him implicit obedience. Where then, upon Mr. Paine's principles, is this *equality of man*. The assertors of this doctrine may with propriety be called upon to shew the country, or the time, where or when such equality existed, or point out the history where it is mentioned; for it is to be observed, that although Mr. Locke states this objection in its full force, in order to confute it, he rather evades than answers it,—he in a manner confesses he cannot give such an instance. He supposes, indeed, but without any proof, “ that the beginnings
 “ of Rome and Venice, were by the uni-
 “ ting together of several men, free and
 “ independent, one of another, among
 “ whom there was no natural superiority
 “ or subjection.” Surely there is no history which gives such an account of the establishment of Rome; on the contrary, is it not agreed on all hands, that Rome was established by a colony from Alba Longa, now Albano, composed of persons

Locke on Government, p. 256.

sons who were under the government or command of Romulus, without any account of that prince being chosen by those he commanded?

We have a very imperfect account of the establishment of the government of Venice, further than we are informed, that the first inhabitants consisted of those *families* who fled from Padoua, when that country was ravaged by Attila in the fifth century. It cannot be supposed there was a perfect equality among these citizens of Padoua: some among them carried with them more wealth, or a greater number of servants, than others, and had means of giving assistance or support to the weaker or poorer part, and thereby had a just and lawful *superiority* over such as they maintained or assisted: even the whole of these emigrants acknowledged the authority of the parent city of Padoua; and it was not till the beginning of the eighth century, that the *tribunes* of the twelve principal islands of which that republick now consists, thought it necessary to change their form of government, and elect a prince or chief of the whole; and in order to entitle them-

themselves to do that, they fought and obtained permission from the then emperor Leon, the sovereign of all the country, and pope John V.

Surely Mr. Locke could not have cited an instance less to his purpose than Venice, where the distinctions between the nobility and the common people have been observed so rigorously for one thousand years, and which surely must have commenced from the very origin of the republick.

Locke on Government, p.
257, 258.
Sect. 105.

Mr. Locke indeed goes further, and says afterwards: “ I will not deny that if we
“ look back as far as history will direct
“ us, towards the original of common-
“ wealths, we shall generally find them
“ under the government and administra-
“ tion of one man: and I am also apt to
“ believe, that where a family was nume-
“ rous enough to subsist by itself, and con-
“ tinued entire together, without mixing
“ with others, as it often happens where
“ there is much land, and few people,
“ the government commonly began in
“ the father; for the father having, by
“ the law of nature, the same power

“ with every man else, to punish, as he
 “ thought fit, any offences against that
 “ law, might thereby punish his trans-
 “ gressing children, even when they were
 “ men, and out of their pupilage; and
 “ they were very likely to submit to his
 “ punishment, and all join with him
 “ against the offender in their turns,
 “ giving him thereby power of executing
 “ his sentence against any transgression,
 “ and so in effect make him the law-
 “ maker and governor over all that re-
 “ mained in conjunction with his family.
 “ He was fittest to be trusted; paternal
 “ affection secured their property and in-
 “ terest, under his care, and the custom
 “ of obeying him in their childhood,
 “ made it easier to submit to him, rather
 “ than to any other. If, therefore, they
 “ must have one to rule them, as govern-
 “ ment is hardly to be avoided among
 “ men that live together; who so likely
 “ to be the man, as he that was their
 “ common father, unless negligence, cru-
 “ elty, or any other defect of mind or
 “ body, made him unfit for it: but when
 “ either the father died, and left his next
 “ heir,

“ heir, for want of age, wisdom, courage,
 “ or any other qualities, less fit for rule;
 “ or where several families met, and con-
 “ sented to continue together, there it is
 “ not to be doubted but they used their
 “ natural freedom, to set up him, whom
 “ they judged the ablest, and most likely
 “ to rule well over them.”

The only instance I recollect, where an account is given of a number of men met together, who might be considered in all respects as perfectly equal, is in the third book of Ovid's *Metamorphoses*. False and fabulous as are the premises, the conclusion drawn from them is just what might reasonably be supposed to be the result. Cadmus, who sowed the seeds of equality, found, as soon as they produced the promised harvest, a number of people, equally armed, of similar strength, and possessed of the same rights: they fell immediately to cutting each other's throats; till among the few that remained, one, wiser than the rest, thought they had better leave off, and submitting themselves to their *Aristocratic author*, they were contented to become *journeymen bricklayers* or *masons*

masons to him*. Cadmus must have considered himself the lord of the soil, and consequently in a situation to give bread to the progeny of the dragons teeth.

Paine, p. 54,
55.

But, to leave fable, and return to matter of fact; does the obedience of children to parents arise from “superstition?” Is the authority of parents over their children found-

- * “ *Primaque de sulcis acies apparuit hastæ*
- “ *Tegmina mox caputum picto nutantia cono*
- “ *Mox Humeri, pictusque onerataque Brachia telis*
- “ *Existunt; crescitque seges Clypeata virorum.*
- “ *Sic, ubi tolluntur festis aulæa theatris,*
- “ *Surgere signa solent; primumque ostendere vultum;*
- “ *Cætera paulatim: placidoque educæta tenore*
- “ *Tota patent; imoque pedes in margine ponunt.*
- “ *Territus hoste novo Cadmus capere arma parabat.*
- “ *Ne cape, de populo, quem terra creaverat, unus*
- “ *Exclamat; nec te civilibus inferre bellis*
- “ *Atque ita terriginis rigido de fratribus unum*
- “ *Cominus ense ferit: jaculo cadit eminus ipse.*
- “ *Hic quoque, qui letho dederat, non longuis illo*
- “ *Vivit et exspirat, modo quas acceperat, auras.*
- “ *Exemploque pari furit omnis turba: suoque*
- “ *Marte cadunt, subite per mutua vulnera fratres.*
- “ *Jamque brevis spatium vitæ sortita juvenus*
- “ *Sanguineam trepido plangebant pectore matrem;*
- “ *Quinque superstitibus: quorum fuit unus Echion.*
- “ *Is sua jecit humi monitu Tritonidis arma;*
- “ *Fraternæque fidem pacis petiitque, deditque.*
- “ *Hos operis comiter habuit Sidonius hospes*
- “ *Cum posuit jussam Phœbeis fortibus urbem.*

founded “in power” only? And what are the “common rights of men,” which children claim from their fathers? Not only the children, but all those of the same family must and ought to be subject to the father of that family as long as they continue a part of it. The person who gives another the means of subsistence, must always have an authority over the person he maintains. Under the Saxon government in England, every person who then provided for another had such authority. He was bound to answer for his conduct. The persons thus provided for were said to be of his *manupast*, or fed by his hand. The superior, the thane, or chief of the Saxon hall mote, was called the *Hlaford*, which signifies literally a giver of bread.

In thus taking a review of the only source from which “original government
“can have arisen,” does it appear to have been founded on priestcraft? Or on conquest? If on reason, it surely arose from the reason of the governor, not of the governed. If government was first parental, there sure needs no proof that the go-
verned

Rights of
Man, p. 54.

verned had no part in making laws ; and
 “ it is, with all politicians, past dispute
 “ that paternal power is in the right of
 “ nature ; and this is no other than the
 “ derivation of power from fathers of
 “ families, as the natural root of a com-
 “ monwealth.” In asserting “ that all
 “ men by nature are equal, I cannot,”
 says Mr. Locke, “ be supposed to under-
 “ stand all kinds of equality. Children,
 “ I confess, are not born in this state of
 “ equality, though they are born to it.”

Harr. Ocean,
 p. 80.

Locke on Go-
 vernment, p.
 238, 239.

Mr. Locke with great propriety sup-
 poses, that when the children become
 men, and able to take care and pro-
 vide for themselves, they are no longer
 under the *authority* of the parent. Ac-
 cordingly we find, in the early ages of the
 world, when a family grew too numerous,
 the one part of the family separated from
 the rest, and *occupied a new territory*, and
 therefore there are so many “ examples
 “ in history both sacred and profane, of
 “ men withdrawing themselves *and their*
 “ *obedience* from the *jurisdiction* they were
 “ born under, and the family or commu-
 “ nity they were bred up in, and setting
 up

“ up new governments in other places ;
 “ from whence sprung all that number
 “ of new common wealths in the begin-
 “ ning of ages, and which always mul-
 “ tiplied as long as there was room
 “ enough, till the stronger, or more
 “ fortunate, swallowed the weaker ; and
 “ those great ones, breaking to pieces,
 “ dissolved into lesser dominions.”

Locke on
 Government,
 p. 263.

It did not, however, follow of necessity,
 that these separations were frequent, or
 made without compulsion ; for Mr. Locke
 allows a family might “ by degrees grow
 “ up into a common wealth, and the fa-
 “ therly authority being continued to
 “ the elder son, every one in his turn,
 “ growing up under it, tacitly submitted
 “ to it ; and the easiness and equality of
 “ it, not offending any one, every one
 “ acquiesced ; till time seemed to have
 “ confirmed it, and settled a right of suc-
 “ cession by prescription.”

Ibid, p. 260.

But, with submission to Mr. Locke,
 this separation from the family and jurif-
 diction, a man was born under, could not
 so readily take place, after land grew
 scarce, and was already occupied ; and
 when

Harr. Ocean,
P. 37.

Locke on
Government,
P. 245.

when the parental authority was weakened, by the child's growing up to man, the parent had still that authority and dominion, “ which arose from property
 “ real or personal, that is to say in lands,
 “ or in money and goods,” and, “ which
 “ was commonly in the father's power to
 “ bestow with a more sparing or liberal
 “ hand, according as the behaviour of
 “ this or that child, hath comported with
 “ his will or humour. This is no small
 “ tie on the obedience of children; and
 “ there being always annexed to the enjoyment of land, a submission to the
 “ government of the country, of which
 “ that land is a part; it has been commonly supposed, that a father could
 “ oblige his posterity to that government
 “ of which he himself was a subject,
 “ and that his compact held them;—
 “ whereas it being only a necessary condition annexed to the land, and the
 “ inheritance of an estate, which is under
 “ that government, reaches only those
 “ who will take it on that condition, and
 “ so is no natural tie or engagement, but
 “ a voluntary submission: for every man's
 “ chil-

“ children, being by nature as free as
 “ himself, or any of his ancestors ever
 “ were, may, whilst they are in that
 “ freedom, chuse what society they
 “ will join themselves to, what com-
 “ mon wealth they will put themselves
 “ under. But if they will enjoy the in-
 “ heritance of their ancestors, they must
 “ take it on the same terms their ances-
 “ tors had it, and submit to all the con-
 “ ditions annexed to such a possession.
 “ By this power, indeed, fathers oblige
 “ their children to obedience to them-
 “ selves, even when they are past mino-
 “ rity; and most commonly to subject
 “ them to this or that particular power.”

“ To conclude, then, though the fa-
 “ ther's power of commanding extends
 “ no farther than the minority of his
 “ children, and to a degree only fit for
 “ the discipline and government of that
 “ age; and though that honour and re-
 “ spect, and all that which the Latins
 “ call piety, which they indispensably
 “ owe to their parents all their life-time,
 “ and in all estates, with all that support
 “ and defence which is due to them,
 “ gives

Locke on
 Government,
 p. 246.

“ gives the father no power of govern-
 “ ing, *i. e.* making laws and enacting
 “ penalties on his children, though by
 “ all this he has no dominion over the
 “ property or actions of his son: yet, it
 “ is obvious to conceive, how easy it was
 “ in the first ages of the world, and in
 “ places still, where the thinness of peo-
 “ ple gives families leave to separate into
 “ unpossessed quarters, and they have
 “ room to remove or plant themselves in
 “ yet vacant habitations, for the father
 “ of the family to become the prince of
 “ it. He had been a ruler from the be-
 “ ginning of the infancy of his children;
 “ and since, without some government,
 “ it would be hard for them to live to-
 “ gether, it was likely it should, by the
 “ express or tacit consent of the chil-
 “ dren when they were grown up, be in
 “ the father, where it seemed without
 “ any change, barely to continue; when
 “ indeed, nothing more was required to
 “ it, than the permitting the father to
 “ exercise alone, in his family, that exe-
 “ cutive power of the law of nature,
 “ which every free man naturally has;
 “ and

“ and by that permission resigning up to
 “ him, a monarchical power, whilst they
 “ remained in it.”

Mr. Harrington also asserts, “ The
 “ principles of government are twofold :
 “ internal, or the goods of the mind ;
 “ external, or the goods of fortune. The Harr. Ocean,
 “ goods of the mind are natural or ac- p. 36.
 “ quired virtues, as wisdom, prudence,
 “ courage, &c. The goods of fortune
 “ are riches.—To the goods of the
 “ mind, answers authority ; to the goods
 “ of fortune, power or empire.—To Ibid, p. 37.
 “ begin with riches, in regard that men
 “ are hung upon these, not of choice as
 “ upon the other, but of necessity and by
 “ the teeth : forasmuch as he who wants
 “ bread, is his servant who will feed
 “ him ; if a man feeds a whole people,
 “ they are under his empire.”

“ Empire is of two kinds, domestic
 “ and national ; or, foreign and provin-
 “ cial.”

“ Domestic empire is founded upon Ibid, p. 37.
 “ dominion.”

“ Dominion is property real or per-
 D “ sonal ;

“sonal; that is to say, in lands, or in
“money or goods.”

I trust, then, very few of my readers
will hesitate to acknowledge, that all go-
vernment was first founded in parental au-
thority, and that afterwards dominion
was, and I believe I may say, is, at pre-
sent, founded in property.

C H A P. II.

ON THE ESTABLISHMENT OF CIVIL
GOVERNMENT.

FROM the plain account of the origin of government, contained in the foregoing chapter, I hope it will not be thought very material to consider what Mr. Paine means by “Government arising out of the people or over the people ;” neither will it appear, “that the individuals themselves, each in his own personal and sovereign right, entered into a compact with each other to produce government, or that this is the only mode in which governments have a right to arise, and the only principle on which they have a right to exist.”

Rights of
Man, p. 57.

Ibid, p. 55.

I should hope such dangerous positions need only to be mentioned to shew their absurdity. If every individual has a right to make a compact with all the other individuals, without which no govern-

ment has a right to exist, there must be an immediate end of all government whatever. No crimes ought to be punished, or rather, nothing will be criminal.— Every man will have a right to say, I disapprove of the order of things: I never individually consented to the laws in being, and I will no longer be bound by them. This doctrine, if it prevails, must evidently authorize every man to submit to no other laws or persons than those he chuses; and few, who possess nothing, will approve of laws which secure the property of others. If the property possessed by the clergy, belongs to the nation, why should not all other property also belong to the nation; and who is the nation?— Does not the nation consist of the individuals who compose it? And upon the principles of equality, whatever the *nation* has a right to, each individual is entitled to his proportional part of. It was formerly allowed, as a principle of common sense and common law, that a person who possessed any thing, had a right to retain it against every other, who could not shew a better title. *Melior est conditio possidentis,*

possidentis, was equally a maxim of French as of English law. It has been disregarded in France, with respect to the clergy, who, perhaps, may be said to have had a right to what they possessed, for their respective lives only; and it has been equally disregarded, in some instances, with respect to the possessions of the nobility and gentry, who have been deprived not only of their titles, a property as sacred as that of their lands, and other possessions, but of a great part of those rights, which are appendant and appertenant to their lands, of which they formed a considerable part of the revenue, and a part which many of the possessors considered the most valuable of the whole; the manerial rights, honours, and immunities, which many of them possessed from ancestors, who had enjoyed them from time immemorial*.

It has been thought proper, in France, to say, such property had its origin in old,
D 3 feudal,

* Such rights in England, as fee farm rents, &c. are generally sold at ten years purchase more than lands which are at rack rent.

feudal, barbarous, Gallic customs, which commenced in usurpation, and such assertions were judged sufficient to annul and annihilate some parts, and to declare the other parts subject to redemption at a fixed price, quite inadequate to their value, in the opinion of the possessors.— This step has been taken by persons who not only had no authority from their constituents for such purpose; but in direct contradiction to the instructions they had received, and also in violation of the principles these very people have declared to be the fundamental basis of their constitution, “ that the right of property being sacred and inviolable, no person can be deprived of it, unless it be legally proved to be absolutely necessary for the public benefit, and in such case the party to be deprived of it is previously to receive a sufficient indemnity.”*

We

* La propriété étant un droit inviolable et sacré, nul ne peut en être privé, si ce n'est lorsque la nécessité publique, légalement constatée, l'exige évidemment et sous la condition d'une juste et préalable indemnité. Decl: des Droits.— Art. xviii.

We have seen how little regard has been paid to this constitutional article, when the nation has thought proper to dispose of, or annihilate the properties of the clergy, the magistrature, and the nobility of France. As the properties of the nobility of this country are of the same kind, have the same feudal origin, and are attended with nearly the same distinctions, immunities and advantages, I hope it may be useful, and tend to preserve the public tranquillity, and prevent the commission of excesses in this kingdom, similar to those in France, to shew, that the complaint against the feudal nature of these possessions, is totally unfounded, and that they are neither unjust nor oppressive ; at least, no part of those tenures at present existing in England.

The admirers of Mr. Paine, who have recommended his late performance, by every means in their power, to the good people of this kingdom and of Ireland, and distributed copies and extracts of it to those, who, if they were not able to read it themselves, may happen to be acquainted with those who could read it to

D 4

them,

Rights of
Man, p. 48.

them, will, I hope, applaud me, (for who would not be happy to be applauded by such people) for having done what Mr. Paine recommends: *viz.* “traced
“the rights of man, to the creation
“of man.”

Ibid, p. 57.

It is not my fault if the result turns out to be, that government originally arose, not “out of, but over the people,” as soon as there were any,—

Ibid, p. 50.

that it was impossible there could be any compact made between the parent and his children,—and, therefore, “that the
“Mosaic account of the creation, whether taken as divine authority, or merely historical,” fully proves, that the *unity of man* consisted in there being but one. By this authority, which, if not divine, Mr. Paine allows to be, at least, historical, and the oldest historical account to be met with, I have before proved beyond controversy, that the first government was parental: the power of the parent could be bounded only by a sense of his duty, in the relative state in which he stood, as husband and father. Nature, or, as I hope we may still be permitted

mitted to believe, without offence to modern philosophers, the God of Nature,—and of the existence of the first man, imprinted in the father, or commanded him to have, a due care of his offspring; to nourish them, and provide them with all the necessaries and conveniencies of life. In return for this care, for this attention, it was the duty of the offspring to yield implicit obedience, and to serve that parent, whose right to govern them they could not dispute. It is certainly consistent with reason and nature to suppose, that this parental authority continued to be exercised not only over the children, but over the grand-children.—The veneration of the parent doubtless accompanied the gratitude, the love, and the esteem, which his tender care and solicitude must have acquired him;—his experience must have commanded respect; and as that of the children increased, they were, probably, consulted and advised with; and where the families multiplied beyond a certain point, it is reasonable to think, the principal family was separated and divided into different and distinct ones;

ones ; still we must suppose preserving some connexion with, and most probably a dependence on, and obedience to the parent stock.

Thus, however irritated Esau was against his brother Jacob, over whom he had no particular or just authority, as they were both living in their father's house, and maintained by him, he did not consider himself at liberty to act hostilely against him, until they were both independent, or, as I may say, emancipated, which seems by the text to have depended, in some measure, on the death of their common ancestor : for Esau says,

Gen. 38. v.
24, 25.

“ the days of mourning for my father
“ are at hand, and then will I slay my
“ brother Jacob.”

When the children of a family were able to provide for themselves, and no longer depended on their father for a maintenance, they, by quitting the family, seem also to have withdrawn themselves from the absolute authority of the parent. This is the account given us by the same divine, or historical authority ;
the

the weight of which Mr. Paine allows, either as the one or the other.

The Mosaic account informs us, that from the three children of Noah, the whole world was overspread. The families of these three chiefs soon multiplying, must have divided themselves still more and more ; and the heads of these families were so many patriarchs, who fed and governed their families with unlimited authority, by the law of their will ; having, in some cases, power of life and death, over their children and other dependents. Judah's passing sentence of death upon his daughter-in-law Thamar, is a proof, among others, in the scriptures, of the absolute authority of a parent over his own family, even whilst his own father and his elder brother were living ; as Sydney very truly observes, when speaking of this circumstance :
 “ He, though living with his father and
 “ elder brother, when he came to be of
 “ age to have children, had the same
 “ power over such as were of, or came
 “ into his family, as his father had over
 “ him ;

Chap. i. p.
18:

“ him ; for none can go beyond the
 “ power of life and death.”

When one family separated from another, it is more than probable the family separating, did not go far ; the natural state of man, while the land was unpossessed, was most probable that of the hunter ; as the people multiplied, it must have become necessary they should tame and breed cattle for their subsistence ; lest they should not be able to find wild animals in sufficient plenty, to maintain themselves ; and they would from thence be led to appropriate certain portions of land, which were before common and open to all, until occupancy gave a better title. The heads of the family who thus took possession of, and planted such land, divided it among their children, and the other people who went with them, in such proportions, and upon such conditions, as they thought proper, and became the governors and judges of all the members of their families. It is probable, there was some superiority given to one of these chiefs, by the consent of the other heads of families. To such superior

perior the others engaged to submit, in case of a necessary defence, or attack from, or upon a troublesome neighbour. They might also agree to submit themselves and their families, in case of any differences among individuals, to the judgment of such of their leaders, of whose experience, wisdom and probity, they had the highest opinion, and this consent or agreement bound all their children and servants, who neither could, nor ought to have had any voice in the determination.

A similar system, something differently modified, would be likely to take place, when any number of families were obliged to separate from the common stock, in search of new habitations, either from want of room or subsistence, or, perhaps, from some cause of discontent; and, indeed, it appears, when any son of a family separated from the parent stock, and provided for himself, that he became independent, so far as respected the government of his own family; yet with some regard to the parent, and preserving a dependence on, or obedience to him.—

Terah,

Terah, the father of Abraham, for example, appears to have been the head of his family ; and kept with him Abraham, his eldest son, and his wife, and his grandson Lot, the son of Haran, his youngest son, with whom he emigrated towards Canaan, leaving behind him his second son Nahor, with his wife and children, in possession of the land he had before occupied. When Abraham became the head of the family, he took his nephew Lot with him, who became part of his family ; and, “ with all the substance that they had gotten,” they went together into Canaan. “ Abraham was very rich in cattle, in silver, and in gold.” Lot also had flocks, and herds, and tents. There was not land for both, in the spot they then were ; and Lot, therefore, quitted Abraham, and sought a new establishment.

Gen. 11. 31.
Gen. 12. 5.
Gen. 13. 2, 5.
Gen. 13. 7.

Abraham could no longer have any authority over him. It appears, from the instance of Jacob's residence with Laban, that the head of the family had an authority over those who were of his household, which ceased upon their separation ;
but

but that the consent of the superior was necessary to intitle the youngest branch to separate from the elder, appears from Laban's pursuing Jacob with a hostile design, because he did not separate from him in a regular manner. It is to be supposed, therefore, that some laws or regulations were in force, upon such occasions, although we know not the particulars.

When land was plenty, occupancy was the best and only title to it; and the life of the shepherd was the life of man, until mankind multiplied so as to render agriculture necessary for their support. It is more than probable differences would soon arise between these patriarchates and subdivisions, just as quarrels arise among neighbouring nations at present.

Gen. 26. 20,
21, 22,

Disputes about the limits of their respective possessions, insults, or ill treatment of the individuals of one clan, towards the individuals of another, from whence would arise further subdivisions or wars, and the subjection of the weaker to the stronger, which being governed by the head of the more powerful clan, still
augmented

augmented the power of the conqueror, and laid the foundation of those great monarchies which we read of in very remote times.

Those heads of families which were assistant in making the conquest, had a portion of the conquered lands assigned them, which they probably governed together with the inhabitants remaining thereon, with as absolute authority as the parents or patriarchs, in more limited domains, had governed their children or dependants : still, however, subject, in a certain degree, to the permanent authority of their chiefs, according to the conditions on which the lands were assigned. If it be fair to argue from analogy, we shall have the strongest reason to believe, that ancient governments were formed in the manner before-mentioned, by examining those which have been instituted nearer our own times, and concerning which we possess authentic accounts.

While land remained unoccupied, sufficient for the use of new swarms, which separated from the ancient hive, within a
small

small distance from that which was before occupied; it is not reasonable to suppose the emigrants went far, in search of new pasturage, for their herds and flocks; but when people multiplied to such a degree, that not only all the neighbouring lands were fully taken possession of, but those at a distance likewise; those who wanted subsistence, were obliged to obtain it on such terms as they could; some of them by becoming servants and labourers to the former possessors; and, instead of the pastoral life, a part of the people applied themselves to agriculture. Others, having an opinion of the courage or conduct of some man of consequence and character amongst them, with their followers and dependents quitted the country, no longer able to support them in the manner they wished, in order to obtain a settlement in some other. When such emigrations or expeditions as these took place, when no common parent can be supposed to have been at the head of the enterprize, there was, perhaps, something near an equality among the heads of those families, of which the emigra-
E
tion

tion consisted, who certainly had a right to chuse, not only the person who should be their chief or leader, but the nature as well as the quantity of power they were to entrust him with, and the manner of executing it.

This right must always exist in the chief members of any number of families, quitting one society to form a new one; but in making such formation, it is absurd to suppose, that every individual of the intended society can have a voice: the heads of families alone, can have, or ever did exercise such right, in the formation of a new society; and their voice concluded all their children, servants, or dependants; and when once they had established any form of government, by a delegation of their authority, to one king or general, or to sundry persons jointly, whether they gave the whole power into his or their hands, or only a certain part, reserving to themselves a control in certain instances, and upon certain occasions; they themselves, as well as each individual, were bound by the engagement they had made: nor is it

it easy to point out how, or when each society had a right to change a government so established. They had exercised that power which resided in the society, and had bound themselves, *and their posterity*; and the persons only to whom they had delegated their authority, could have a right to introduce any changes into the constitution, which the community had settled and agreed upon. This, I hope, will be considered by the admirers of Mr. Paine, who has supposed that no society can bind posterity, not recollecting that a society or corporate body never dies, and, consequently, has no posterity: one member dies, or leaves the society, but as the death of one dissolves it not, so the admission of a new member, changes no part of its laws, which continue binding upon him, tho' made a thousand years before he was born.

If, from any unforeseen cause, it should happen the government of a country should be totally overturned and dissolved, confusion and anarchy must be the unavoidable consequence.

It is impossible to say how order can be restored, or lay down rules for extreme cases. There is no doubt in such a situation, new rules must be formed, by which the society must be regulated; but the difficulty will be to find out who are the persons to form them. The many cannot, and it is probable that the sword will decide who, among the few, are those to whom the others will submit.

When these adventurers succeeded in their enterprize, either by finding a commodious uncultivated spot, or by obtaining a victory over those who were already in possession; the prince or leader, or other persons invested with that authority, divided the lands among his and their followers, in the same manner as the heads of the families did the unoccupied lands, which they appropriated to their own use, as mentioned in *page 44*; but as the people invaded, fought for all that was dear to them, for their properties, for their families, and for their lives, no doubt but the battles were very bloody. The chiefs and principal people of the
con-

conquered, either agreed to submit to the authority of their conquerors, or were put to death, and the inferiors reduced to slavery*. If the invaders were conquerors, they seized all, or the greatest part of the lands of the conquered, which were parcelled out in such a manner, and under such conditions, as their common advantage and security demanded. The chief leader or general, had a larger proportion than any of his companions in

E 3 arms;

* I use the word slave and slavery, to express absolute, unconditional servitude, though, perhaps, improperly; the term having been originally applied only to the persons who being of the nation of the Sclavi, actually were sold by their Christian invaders, *because they were Pagans*. Servants long before, and after that period, were under the control and power of their masters, which, however, was often so regulated by the laws of the society in which they were retained, as by no means to merit that appellation in the absolute, unconditional sense of the word. Such are those laws which regulate the Negro *servants*, in the West Indian Colonies, which depriving the master of the power of life and death, and of improper or immediate chastisement, subjects the negro to no more servitude, except as to the term of its duration, than the parish apprentice. It is to be lamented, with respect to both, as well as with respect to the laws, relative to the regulations concerning the poor all over England, that they are sometimes broken with impunity.

arms ; and each of the latter such an allotment as was consistent with his part in the enterprize, and the number of his followers and dependants, who fought under his banners. From hence we may date the origin of feudal tenures. In times more ancient, when lands were possessed by the parent or patriarch, without the danger attending war and conquest, the authority of the Lord over those to whom he granted land, was absolute. Thus Tacitus, speaking of the authority of the ancient landholders of Britain, says, “ *Agricolis suis jus dicit:*” and that the occupiers of the land held them only at the will of the Lord, appears from the following account from Cæsar: “ *Neque quisquis agri modum certum aut fines proprios habet.*”—These kinds of possessions, from which the tenants were amovable at pleasure, were called *Beneficia* ; and to the same purpose *Geraldus Niger*, the German Consul at Milan, in his treatise of Ancient Feuds and Tenures, has these words :—“ *Antiquissimo tempore sic erat in Domini minorum potestate, connexum, ut,*
“ *quando*

Lib. 6, p. 116.

“ quando vellent, possent auferre rem,
 “ in feudum, a se datum.” In times of
 very remote antiquity, we know not ex-
 actly the conditions on which the lands
 were granted, by the heads of families,
 to their children and dependents, or in
 what manner they became independent;
 but nearer to our own times, in the de-
 clining state of the Roman government,
 when the northern nations attacked the
 different parts of that empire, the lead-
 ers of those numerous armies entered into
 a kind of compact or confederacy with
 their principal followers, that the lands
 which they might conquer should be
 divided among them, in shares propor-
 tioned to the force respectively employed
 by them in the enterprize: in other
 words, according to the number and
 strength of their followers and dependents;
 and, perhaps their allotment might be
 increased on account of remarkable cou-
 rage or conduct. The governor, who
 was the prince and commander in chief,
 had a superior share, and as he was to
 superintend the whole confederacy, the

allotments of other officers seem to have been holden of him.

Each of these officers kept sufficient for the maintenance of himself and family in the plenty and splendour his rank demanded, and divided the rest among his friends and followers, without any burthen thereon, except what the common defence of the whole required ; thus the whole land of the country was disposed of, among those who were equally interested in the defence of it.

This agreement among the heads of families, which I have before mentioned, is the only compact which society can be supposed to enter into. The German lords, according to Cæsar, had their *ambacti*, *comites*, and *clientes*. These were their followers in war, and their companions in peace. They had their subsistence out of the lord's land, which they held at the will of the lord, in the manner mentioned by *Geraldus*, in the passage before quoted. It appears, as will be more fully shewn hereafter, that the manner in which these followers and companions had their subsistence, from the principal

principal chiefs, was by an assignment of part of the lands allotted or held by these chiefs. These lands, so assigned, were again subdivided among the retainers and followers of the former, and their wishes and desires were made known to their immediate superiors, by the heads or fathers of the family; and by this means the general sense of the community was known. So far the source of power may be said to be in the people, without having recourse to the absurd idea, of every individual having a right of suffrage, a circumstance which never did or could happen even among the Romans; only such as were Roman citizens had a right of voting, which were a very small part of the whole community, and even the share *they* had in the government, overturned it.

But the original constitution of that powerful nation, was very similar to all the governments established after the ruin of that empire, in the western and northern parts of Europe. Romulus, who was, *some how or other*, at the head of the
the

the colony from Alba Longa, named the principal of his officers, to be his counsellors. These were undoubtedly heads of families, as their appellation proves. They were called *Patres*, Fathers. The people were divided into three parts or tribes. These tribes into ten *curiæ* or burghs; each *curiæ* into ten *decuriæ*; to each *decuriæ* there was appointed a chief. These *curiæ* had a number chosen out of them by Romulus, to make up the number of counsellors 100. These were called *Patres Conscripti*, still preserving the idea of parental power. The people too were divided into two classes, Patricians and Plebeians.—The latter chose their *patrons* out of the Patricians, to take care of their interest in the senate, to be their counsellors and defenders, on all occasions, especially in law-suits, which would of course happen, as the lands were divided among the tribes: and in consequence disputes must happen, respecting boundaries, &c. for the Roman, as well as every other government, was founded in property;—
and

and though it is said, that in the assemblies of the *Curiae*, each man had a vote, it is clear, that such man must have been the head or father of the family.

C H A P. III.

 ON THE ESTABLISHMENT OF GOVERNMENT
 IN BRITAIN: ON PROPERTY AND FEUDAL
 TENURES.

I HAVE, in the foregoing parts of this treatise, endeavoured to shew how governments were anciently formed, and brought down the account as low as the period when the Provinces of the Roman Empire were seized on, by the armies which came from the northern parts of Europe. Britain, among the other parts of the Roman Empire, was thus invaded, and thus conquered; but not all at once, or by the same armies. Hengist, who supplanted Vortigern, erected the kingdom of Kent, in 457; but fresh invaders arriving, in time no less than seven kingdoms were erected by the Saxons, out of the ruined possessions of the ancient inhabitants, the principal of whom retired into the mountainous parts of Wales and Cornwall, leaving the inferior

ferior people, who had no property, in the lands, to cultivate them for their new, as they had formerly done for their old masters. In order to preserve their property in the lands thus acquired, they followed the example set them by their ancestors the Goths, upon their invasion of the other parts of the empire on the continent.

Each officer or captain to whom lands were allotted, had authority in the lands allotted to him, subordinate indeed, in some degree, to that of the prince or general, but with nearly similar privileges within his district, as the king had in the whole kingdom. This allotment to the under captain, afterwards called Thane, being proportioned to the number of men under his command in the war, or the signal services he performed, was assigned him by the prince and his counsel, for the maintenance of himself and his followers ; and as these officers had, some more, some fewer soldiers, under their direction and command, it must naturally occasion the land assigned them to be different in quantity, which is the reason

reason we find such allotments called *honours* and *manors* so very different in extent, some containing several towns and villages, others no more than one small village. The manor of *Wye*, in *Kent*, granted by *King William*, to *Battle Abbey*, had several towns and manors dependant on it; but notwithstanding, several manors were parcels of, and held immediately under some honour. The Lord of each manor had peculiar privileges, and a jurisdiction over the tenants of the manor, as will be more particularly described hereafter.

The captains to whom these lands were granted, usually divided them into three parts; for, although they had the absolute authority to dispose of them, for the support of their inferior officers and soldiers, in the manner they thought proper, yet they seem not to have chosen to occupy the whole by themselves and servants. The inferior Britons, who used to till the land for their ancient masters, and who having no property in the soil before, probably found no change of condition in living under *Saxon*, than before
under

under *British* Lords : whether they were equally *slaves* or subservient to them, as they were afterwards to the Saxons, I know not. It was necessary, however, that their followers should be maintained out of the produce of these lands ; and, therefore, “ the Captain or Lord of such manor, after having reserved to himself one part of the land that was laying within the view of, and surrounding his castle or mansion-house, for support of his family and hospitality, and this was called the *Thanes* inland, as lying *inter curtem*, according to the term given to that part by the Feudists, as being within view of his hall, and sometimes termed *terras curtiles*, which the *Normans* called *terras dominicales et mensales* ; viz. the demesne or lords lands. These lands were manured and cultivated by mere servants, who were mostly the poor Britons who remained among the conquering Saxons, and became their slaves.” He granted other parts of the manor to his companions and followers to cultivate to the best advantage. These lands they held of the manor without any servile condition annexed,

Rel. Shel. p.
17.

Hist. of C.
Baron, p. 541.

Hist. of N.
Councils, p.
47, 552.

nexed, and without any rent or service, other than that honorary military obligation which respected the general interest of the whole, called in Latin the *Trinodis necessitas* : viz. expeditions, building, and repairing of castles, forts, and bridges.—The persons to whom these lands were granted, were the freemen who were the assessors of the Lords, in the court of the Lord or *Court Baron*, where the Lord had the same jurisdiction and authority, as the superior Lords or Princes exercised in their great feignories or kingdoms : jurisdiction attending lands, all that possessed lands freely had a share in the administration. The jurisdiction of the Lord was, therefore, not arbitrary ; but the disputes and differences between his men in their civil rights were determined, and criminals punished even by imprisonment in dungeons in their castles, for any length of time, or by depriving them of life, with the *advice and council of his freemen*.

In this, however, they were equally absolute with the kings themselves, who, in their great foke or feigniory, determined
ed

ed no matter of importance without the advice and council of their Thanes, who were the original sharers with them in the conquered lands. Part of the remainder of these lands were let out to husbandmen, under rents and services, which were paid in kind; that is, in meat, poultry, cheese, milk, honey, corn, hay, and other necessaries of life. This, which was called free socage, is now generally paid in money, and such rent denominated Quit Rent, or White Rent, for *w.* was not anciently a letter used in Britain, but words now spelt with it were spelt with the letters *quh. i. e. quhat, what; quhite, white*: other part of the lands were held by base socage, the tenants of which were to perform such services as the lord should order. This, in contradistinction to rent paid for land held in free socage, was called Black Maile. Mail in Scotland to this day signifies rent.

The quantum of rent for lands held in free socage, seems, among the Saxon kingdoms of Britain, to have been settled by law, as by the 70th law of Ina, king of the West Saxons, who began his reign in the

F

year

year 688, the rent of a farm of ten hides of land is particularly specified. It shall pay, says that law, 10 measures of honey,—300 loaves of bread,—12 measures of strong beer,—30 measures of small beer,—2 oxen, or 10 wethers,—10 cheefes,—1 firkin of butter,—5 salmons,—20 cwt. of hay,—100 eels.

These farmers had a continuance in their lands only during the pleasure of their lords; nor were the farmers bound to continue their farms longer than they judged proper, the tenants being under no bondage service to their lords; but it was provided by the 65th and 66th laws of the same king, that the farmers should not leave the lord's land in a bad condition, but that half the land should be left sown for the lord's use.

In the time, however, of Alfred, it appears that socage lands became in some measure heritable, and were to remain heritable among all the sons of the family; and so it continued in the time of Glanville, who expressly declares it; and Bracton, speaking of the socage lands, says:

“ says : Semper solent dividi ab antiquo;”
 and again, “ Consuetudo quandoque pro
 “ lege fervatur in partibus ubi fuerit
 “ more utentium approbata, et vicem
 “ legis obtinet, longevi enim temporis
 “ usus et consuetudinis non est vilis au-
 “ thoritas ; longa possessio, (sicut jus)
 “ parit jus possidendi, et tollit actionem
 “ vero domino.” Thus it appears that

Hist. of C.
 Baron, p. 568.

free socage lands became hereditary in the families of those, who holding them first at the will of the lord, at a certain rent, which, from what we see of the white or quit rents paid for freehold lands, must have been very small, tho' the full rack rent of the land at that period, became hereditary, by the negligence of the lords, which was one of the first *usurpations* of their property, unless they became so from their *concessions*. In either case, the quit rent or cens which the French assembly have declared *rachetable*, at a price much below what the possessor judges its value, and that, whenever the tenant pleases, is as just and sacred as any other property whatever.—Is there any thing barbarous, is there any thing

oppressive in this relique of the old feudal tenure?—The lands held in base socage were granted upon harder terms.

The persons to whom they were granted, were from the word villa, a country farm, stiled villains, and their tenure was called villanage. These villains were of two kinds, the one was bound to the person of his lord, and was called a villain in gross; the other was attached to the land, and was called a villain regardant. Although neither of these remain, it may not be improper to speak something of the latter kind of villains. The greatest part of both were the conquered Britons, who remained on the lands when the Saxons took possession of them. The villain regardant to a manor, was not only at the will of the lord, as to his continuance on the farm, but he knew not the service he was to do till he received his lords commands; many of these villain tenants obtained favour of their lords, and had particular services assigned them, on which they were permitted to enjoy their lands, and they then became socmen, for certain rent and certain service, supersede villanage, and is socage.

These

Cowel voce
servi.

Mirror, 109.

2 Salk, p.
666-7.

Hist. C. Baron,
p. 573, 575.

These tenants, after having obtained the favour of their lords to be under certain rents and services, their lands had names which indicated the certain services they were to perform. The lands, the tenants of which were bound to do the work of their lord, on particular times, as stated in the original grant, was called *work land*; and, according to the days on which the work was done, it was called *Monday land*, *Tuesday land*, &c. &c.

Somner gavel
kind, 116. et
seq.

The land of those tenants who engaged to work the lord's lands with cattle, as the condition of their grant, was called *aver-land*.—Aver, was the general term for all working cattle, now applied only to a young cow. The tenant of *aver-land* was obliged to work for his lord *cum averiis*, and that work, in Latin, is called *averagium*; *i. e.* work with horses, wains, or carriages, to carry his hay, corn, &c. which carriage, within the precinct of the manor, was called *in average*; if out of the manor, *out average*; if with horses only, it was called *horse average*. The tenants of such land

were called *aver-manni*. If they were to bear the lord's or his steward's provisions, or other small quantities of goods, when they removed from place to place, they were called *bermanni*, and their land was called *berland*.

In like manner, some of the tenants were bound to do the smith and farrier's work for the lord, others to furnish his table or board with ducks, geese, pigs, and other produce of their farms, or with white meats, such as cheese, milk, butter, &c. called *molcen*; others to take care of his cattle in dross or miry places; others to plow the lord's lands, which lands were respectively called *smith land*, *board land*, *mol land*, *sulling land*, from the Saxon word *sul*, a plow. Other land was called *gavel land*, or land which had paid a rent or *gavel*, which was denominated from the kind of rent that was paid: e. g. rent paid in beer or barley, was called *bere gavel*; in honey, *honig gavel*, &c. The occupiers of the preceding tenures are termed, in doomsday, by the names the Saxons gave them from the nature of their duties and services,

as

as *Cotarii*, *Cotsetti*, *Cotmanni*, *Berman-
ni*, *Bordmanni*, *Drofmanni*, *Vilani et Servi*,
which last were direct slaves. It may
be sufficient to give a few instances
of some of the mean and vile services,
tenants were to perform for their lords.

The tenants of *Thurgarton* and *Horse-* Blount, p. 142.
pole, in *Nottinghamshire*, that held in
villain service, were each of them, at
Christmas, to bring a cock and a hen to the
priory of *Thurgarton*; and every villain
gave a halfpenny towards clearing the mill
dam there, and was to plow three days,
and reap every other day in harvest. Sir
Edward Coke, in his first Instit: p. 86,
says, that the meanest of all tenures, was
that which obliged tenants to be hang-
men or executioners. Persons, in ancient
times, were hardly to be hired for such
service; wherefore, lords who had *fossa*
and *furca* in their fokes, used to grant
lands to be held by the service of being
executioners. In Edw. I. time, in the
manor of *Stonely*, in *Warwickshire*, there Ibid 3, p. 193.
were four bondmen, who held each of
them one messuage, and one quartern of
F 4 land,

land, by the service of making the gallows, and hanging the thieves.

In the same king's reign, *Underwood* held lands in *Brayles*, in *Warwickshire*, of *William*, Earl of *Warwick*, to gather nuts for him three days in the year, and not to marry his daughter, *nec filium coronare, i. e.* make his son a priest, without licence from his lord.

Every one must see from the above account, that the services and rents, reserved on the grants of lands, to their feudal tenants in base socage, are as legal and just demands from the lords, as the rack rents demanded by landlords of the present day from their tenants.—The grants of lands in free socage, were of the same nature, and the quit and other rents reserved were, and still are as justly due as the former, although some of the reservations were almost as ridiculous, and others more degrading, than those on the grant of lands in villanage.

For example, in Edw. I. time, *Rowland de Sareere* held 110 acres of land in *Hemington*, in *Suffolk*, by sergeantry, under

under a condition of playing Christmas games before the king, *to wit*, to dance, puff up his cheeks, making these with a comical sound, &c. Peter de Baldwin held Carnbies, in Surry, on condition of being the queen's wool gatherer, from the briars or thorns in the hedges, or pay 20s. *per annum*. Blount, p. 79.

Peter de Spelman held *Brokenhurst* to find straw for Edw. II. bed. Lords of manors had the same kind of tenures the king had, and those free tenures are still in use, neither do any persons consider any of the rents reserved, oppressive; and with respect to the tenure in grand sergentry, it is considered with respect and regard throughout Europe; and in England, prior to every coronation, the parties interested, make claim to be admitted to perform the services by which they hold their lands. The tenants of these lands became afterwards members of the customary court; they are what we now call copy-holders, who formerly held intirely at the will of the lord; but from a similar negligence or favour of the lords, of whom the lands were holden, suffering

Pl. Coron. 39.
H. 3.

Blount, p. 79.

suffering the tenants, from father to son, to enjoy the lands, upon paying the same sum, or nearly the same, for admission to the lands held by the former tenant, the son or other heir claimed a kind of prescriptive right to the copyhold land of his ancestors. These fines were, for a long time arbitrary; but at length became, in some degree, certain and dependent on the custom of each manor. The law also restraining the highest fines for admission, on alienation or the death of the tenant, to two years rent of the land. This, however, is another evident usurpation on the right of the lord; and these fines on alienation, called by the French lawyers *lots et ventes*, which are the remains of their right to the whole land, are surely a *just* and *sacred* property.

It appears from the foregoing account, that no land was anciently held by any person without condition. The general, chief governor, or king, was bound to his captains and companions to afford them protection, and to maintain his own particular followers and soldiers out of the
land

land which was allotted him. This protection he promised upon oath; and the principal officers of his army, the great barons and tenants in capite, who were considered as holding of the king, as the key stone and center of the unity of the whole community, plighted their faith by oath to him, and were tenants of *his great seignior*y; and as they answered their tenure duties to him, so their tenants did the same to them. The king gave to his barons the assurance of an oath, as the vassals of the *great seignior*y, because they could appeal to no superior but *God*, if he acted contrary to his duty; whereas the tenants of the *lesser seignior*ies did not receive the same assurance from the *lords* of those *manors*, as they might apply against their lords in the court of the *great seignior*y if their rights were invaded; an action of trespass lay against the lord in case of such invasion. There appears, therefore, to have been very little difference between the power of the *thanes*, *barons*, and *other lords of manors*, in their *sokes or seignior*ies, and that exercised by the king in the great seignior

They

Hist.C. Baron
p. 619, 620.

They were a sort of *petty kings* in their several districts, and made laws to be obeyed and observed there; yet neither the king in his great foke or feigniory, nor the other lords in their smaller districts, could make any such laws without the consent and approbation of their vassals, suitors of the court, who, as has been observed before, were the heads of families, or the people in whom the power resided. The barons were counsellors and assessors to the king in the great court of the nation, and the freeholders were counsellors and assessors to the lord of the manor in his court baron. Thus, under this old feudal system, so much abused and so little understood, the representation of all the property in the kingdom was complete, as every possessor of land had a voice in the foke or manor of his lord, or was there represented by the suitors of court,—the freeholders,—the *homines legales*; so the lords of these manors were represented in the great feigniory or court of the nation; and thus the consent of the people, that is, all the people who possessed property, was actually obtained to

to all the laws which were made. The *villains*, indeed, were left much to the mercy of their lords; and those which were *villains in gross* were absolutely in their power. There is not, that I know of, any *positive law* in England by which such *villainage* is repealed; but it has now long been extinct, as well as that which intitled the lords to demand uncertain rents or uncertain services of their tenants.

Whether this commutation of uncertain or personal services into certain and rent service, arose from the favour of the lords to their villains, or from careless lords suffering their tenants, from father to son, to continue their farms upon the same descent fine, which, from being at first arbitrary grew certain, is immaterial; this much must be allowed, that the change arose either from favour to, or usurpation on the part of the tenants, who claimed from thence a customary right, and to be entered in the lords books upon the same terms with their predecessors. Thus, that which was at first only an occupancy during the good will and pleasure of the lord, grew up a customary

Hist. C. Baron,
p. 575.

tomary right to admiffion, upon a certain fine, and a certain rent or certain fervice. Not contented with this, the tenants petitioned their lords to have copies out of the lords books, of the terms on which they were permitted to poffefs their lands, which being yielded to, fuch custom became general, and the tenant was called tenant by copy of court roll, and the land copyhold, and the holding at the arbitrary will of the lord was changed to holding at the will of the lord *according to the custom of the manor*. The heirs both of free and copy land, however, paid anciently uncertain fees for admiffion to the lands of their ancestors. The claimer of free land paid relief for *premier feizin*, and an uncertain fum for *livery and feizin*. The heir to copy land paid an uncertain composition, by the Saxons called *Gersuma*, a fine, or income, and when agreed upon between the farmer and the lord, the farmer was allowed to take up the land which was fallen into the lord's hands. These conventions and agreements between the lords and their tenants, were recognized in the moft folemn manner; both

both freeholders and copyholders were bound by oath to the performance of their duty; they were bound to do homage and fealty; and though these forms are now generally dispensed with, the lord may, I believe, insist thereon. It may not be amiss to mention the manner and form of doing homage and fealty, a ceremony from which even kings were not dispensed when they had lands in the dominion of another prince. This homage and fealty were different when paid by freemen or by villains, the predecessors of our copyholders. When a freeman did homage to his lord for the land he held of him, he held his hands together between the hands of his lord, and said,

I. N. become your man from this day forth for life, for member, for worldly honour, and shall owe you my faith for the lands I hold of you, saving the faith I owe to our sovereign lord the king, and to mine other lords. 17 Edw. II.

The freeman's oath runs thus: laying his hand on the gospels, he says,

Hear

Hear you, my lord! that I. N. shall be to you, both true and faithful, and shall owe my fidelity to you for the lands I hold of you; and lawfully shall do and perform such customs and services as my duty is to you at the time assigned; so help me God, and all his saints.

The villains oath of fealty runs thus:—

I. N. from this time forth, shall be true and faithful, and shall owe you fealty for the land I hold of you in villainage, and shall be justified of you in body and goods; so help me God, and all his saints.

Whoever wishes for a fuller account of the nature and origin of the feudal laws and customs, I refer them to Gurdon's History of the Antiquity of National Councils; enough I flatter myself has been said to prove my assertion that the feudal system, and the regulations of it, are neither unjust or oppressive. It is clear that all the rents and services claimed by the lords of manors
are

are due to them by virtue of grants or contracts made to, or with their tenants, and that the tenants ought to pay those rents, or perform those services, or give up the lands which they held on condition of paying such rents, or performing the services agreed on ; certainly, therefore, nothing can be more contradictory to the principles fought to be established by the late assembly of France, respecting the sacred nature and inviolability of property, than the invasion and destruction of the *feudal properties* of the *noblesse* or *gentry* of that kingdom. If any part of the honorary privileges, or the services due to the nobility or landholders of France, were considered as injurious to the community at large, a fair and *previous* compensation ought to have been paid to the persons intitled to them, as was paid here, to the gentlemen in Scotland, who heretofore possessed heritable jurisdictions in that kingdom. But how are the public injured if A pays B a *quit rent* of 1d, or 100l. for land, or for the *ground rent* of an house : whether he

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pays

pays one or five years *rent* for admission into a copyhold estate, or for a right to alienate it : whether he is obliged to hold a *bason and towel*, or deliver a *maple cup* to the king, on the day of his coronation, or find him two *green geese* when he comes to *Aylesbury*, or is obliged to clean out a ditch, plow a field, mow down an acre of grass, grind the corn growing on his land, at the mill of the lord, or pay so much for repairing a bridge, or for the right of passing over it, to his landlord, as the condition of possessing a valuable piece of land. If he dislikes the terms on which he holds the land, let him abandon it ; and the *service*, or the *rent* ceases. Can any thing be more unjust than to say to the man who has granted or leased land to me, upon condition that I shall have a proportion of the produce, or to all the wild birds and beasts that feed upon it, you shall neither have your land back, nor profit by the reservation you made, at the time you granted or leased me the land.

Such,

Such, however, is what the National Assembly have done, when they have declared, the right of *chace*, of *cham-part*, of *peage*, of *bannalite*, and of *lots and ventes*, and other feudal rights, abolished.

C H A P. IV.

ON HEREDITARY TITLES.

IF one species of property ought to be looked on as sacred and *imprescriptible*, how are we to distinguish between that which is, and that which is not so: but if there is any species of right or property which ought to be exempt from invasion more than another, it surely is that, the enjoyment of which is of no inconvenience to any other person whomsoever; but which, on the contrary, costs much to the possessor, and his expence to support the possession administers the means of subsistence, and diffuses wealth and happiness to numbers of his fellow citizens. My readers will, undoubtedly, perceive, I allude to the famous decree of the National Assembly, by which all titles of noblesse, armorial bearings, and liveries were

were abolished. I shall postpone what I have to say concerning the impolicy and injustice of abolishing hereditary nobility, and confine myself, at present, to the making some observations on the nature of armorial bearings and liveries, as arising from the ancient feudal system, so much decried of late by men who are reducing every thing to a perfect level.

The chieftains, who led their followers to battle, either to invade the territories of others, or to defend their own, found it was necessary each army and each sub-division of an army, should have some banner, some distinguishing mark or ensign, to which every particular might resort or be attached. Persons performing signal services to their country, acquired a right to such marks of distinction, which were conferred on them by solemn grant, to them and to their posterity.

This, surely, is a property justly and legally acquired.

It is a property, the enjoyment of which could be injurious to no man. On the contrary, the engravers, the sculp-

tors, and the painters, are benefited by the exercising their several arts, in perpetuating these memorials.

The sumptuous liveries given by persons who were intitled to them, or who gave them without having any such title, employed thousands of industrious weavers and other mechanics, who must now languish without any employ or means of subsistence; thus, then, by abolishing armorial bearings and liveries, abstracted from the consideration of the injustice of taking away from persons what they had legally acquired, and which their families, for ages, have been in the undisturbed and legal possession of, the industrious tradesman sustains a real injury. Is not the honest and industrious artist, who having been exercised in works of skill, rather than of labour and strength, and from the nature of his former employ, being incapable of any great exertion of them, in danger of being thrown on the public for a future subsistence, together, perhaps, with a numerous and helpless family. The declaration of the Rights of Man, was made
previous

previous to the abolition of titles, and, consequently, the property in those titles ought not to have been abolished, without its being evidently and *legally* proved to have been necessary for the public weal, and with a full and previous indemnity. It may be objected, that titles and hereditary distinctions, being of no real value, demanded no indemnity, and that those distinctions which were the rewards of merit, to the founders of the families, ought not, in justice, to descend to those who had done nothing to merit them ; but, perhaps, might deserve to be declared unworthy to bear them.

I answer, as to the first, that whatever a man possesses which constitutes his happiness, or is any addition to it, cannot, nor ought to be supposed of no value. It is notorious, that throughout Europe, many persons prefer hereditary, or even personal distinction, beyond money. I could enumerate a great variety of instances, but I will confine myself to one:—It is well known, that an ancestor of the present *Duke de Brancas*, employed a very large part of his fortune in fit-

ting out several ships of war, for what was then supposed the service of the nation. The expence is said to have been many millions of livres. In preference to being paid in money, he required that his estate of *Branças* should be erected into a duchy and peerage. The measure, therefore, by which to estimate that gentleman's titles, is easily attained, but to suppose any thing to be of no value, because it is of no real use to the possessor, is surely absurd; or if such supposition is applied to other useless property, the injustice of it cannot be denied. Is there any real use in diamonds or other precious stones, in gold or silver lace, in ten thousand works of art or of nature, in the cabinets of the curious, which are held in very high estimation by their proprietors?

Yet will any person pretend these have no value! May they not be sold and produce much real worth,—are honours and titles less valuable, because they are not saleable?—Indeed, in France I believe they were so, in some degree: the title might be sold with the land from which
it

it was derived ; only, indeed, formerly to one of the *noblesse*, but in abolishing those distinctions by the declaration of the *Rights of Man*, “ that all citizens
 “ had an equal claim to be admitted into
 “ the possession and enjoyment of all
 “ *dignities and honours*.” The value of these titles would have been greatly increased by the number of people who would have been competitors for the acquisition of them.

In a system founded in presumption and error, it is not wonderful to find glaring absurdities and inconsistencies.

It is laid down as an essential article of the *Rights of Man**, “ that all citizens have an equal right to aspire
 “ and be admissible to all *dignities*, places,
 “ and public employments, according to
 “ their capacities, and without any other
 “ distinctions than their virtues and
 “ their talents.” Was it necessary, then,—

* Tous les citoyens aux yeux de la loi sont également admissibles à toutes *dignités*, places et emplois publics, &c.
 Decl. Rights. Art. vi.

then,—nay, was it not a direct contradiction, to declare afterwards, that the greatest part of the *distinctions* existing at the time such declaration was made, should exist no longer?

If it was necessary to abolish the greatest part, why not the whole? Why is the crown to be hereditary in one family, when all hereditary distinctions are declared unjust? Is not *royalty* as much founded in the feudal system, as a *dukedom* or a *marquisate*? If the hereditary titles are to be abolished, because founded on the old feudal system, why are the possessions of the king and the royal family to be disposed of for the benefit of the nation, and those of private individuals to remain to them and their posterity? Why are the lands given to the church, and in the actual possession of ecclesiastical persons, to be taken from them, and those of the nobility to remain in their hands, though every person must own, that all these possessions had the same *feudal origin*?

Indeed, if there was to be a comparison made between the different degrees of
injustice,

injustice, in depriving the clergy or the nobility of their titles, or their estates, there would appear to be less in confiscating the latter to the public use, than in abolishing the former. The persons who usurped a large territory, or to whom such lands were granted, when conquered from the former possessors, were obliged, at their own expence, to maintain a number of persons, always ready to defend themselves and their associates, against any invasion from without, and to maintain peace and good order internally.— These expences are now borne by the people at large.

Thus it is evident the abolition of titles is even more unjust than the resumption of the estates of the nobility could be. *A pretence* might be made in the latter case, of dividing these lands among the people; for as to the applying any part of them in the manner they have pretended to apply the estates of the crown, and the royal family, or of the church: it must be evident, that should such application be made, the rich only can be benefited

benefited by it, which I shall endeavour to shew clearly to be the case hereafter.

I shall first attempt to prove, that the depriving people of their hereditary titles, and abolishing hereditary nobility in future, is as *impolitic as it is unjust*. In the first place, it will be allowed that every established society must encourage its members to exert their talents for the benefit of the whole, and where any great service is rendered by any of the members, they are entitled to a recompence, proportioned in some degree to the advantages the society has, through their means, obtained.

This recompence in France was ordinarily, heretofore, made by what cost the nation nothing; by a blue or red ribband, or other mark of distinction,—by advancing the party meriting it to the rank of nobility, or to a higher rank than the person possessed before, these rewards had even a superior value set upon them, by the persons receiving them, than pensions or gratifications. Persons who possessed ample fortunes would have refused the latter, but from a consideration there was honour attending

attending the grant of them, because they had been merited; but however honourable pensions and gratifications were, as they were not accompanied with any outward marks of distinction; the *ribband*, or the *Croix de St. Louis* were more sought after and esteemed; nay, notwithstanding the suppression of titles, even under the present constitution of France, a *municipal* scarf, a *panache*, or some other outward mark of distinction, is thought necessary to procure respect to the ministers of law or of justice. These I shall be told are *personal* distinctions only; but were not the blue and the red ribband *personal* distinctions also? merely honorary? If other persons who shall merit of the public, do not receive, or will not be satisfied with *honorary* distinctions, they must receive *pecuniary* recompence.

The idea of holding out *money* as the reward of brave or splendid actions, must tend to degrade the human mind; and the payment of it, *upon such occasions*, must operate directly against the principle
on

on which the abolition of *hereditary* honours is founded.

If rewards for services rendered our country, are not to be enjoyed by the descendants of the meritorious party, lest they may perhaps be unworthy, they should by no means be of a *pecuniary nature*, but merely a pension for life; suppose, for example, 10,000*l.* or any other sum, to be bestowed on an officer or statesman, would not the estate purchased with this money descend to his heirs? And is there any reason why *this reward*, which must be taken out of the public purse, should be *hereditary*, and the titles of *duke, marquis, count, viscount, baron, chevalier, &c.* should not be so? The late earl of Portland, *duke of Marlborough, lords Hawke, Chatham, Rodney*, and several other persons of distinction in this kingdom, exclusive of the titles conferred on them for their services in the state, have had grants, either of land or rent charges in fee, or for long terms of years, or for the lives of themselves and their immediate descendants. If the titles of these gentlemen should

should be taken away, why should the estates and annuities be suffered to remain? It may be said of the one, that they may alleviate the public burthens; they, like the estates of the church, may be disposed of for the purpose of paying the national debt, or may be divided *among the people*; whereas the titles, if shared in such a manner that every individual might assume and bear them, would not be of the least advantage to *these people,—this public,—*which have ever been, and ever will be the dupes of the insidious pretences of the *factious demagogues* who pretend to have the *public welfare at heart*, when they have nothing in view but their own *private interest*.

To say nothing more of the injustice of seizing the lands of the church, in order to sell them for the payment of the public debt, let us examine what possible benefit can result therefrom to the people,—I mean the poor people of France, who constitute by much the greatest part of the 25 or 30,000,000 of the inhabitants of that kingdom.

It

It is pretended that already near 400,000,000 livres of the national debt are annihilated.

The tythes are suppressed,—the immense revenues of the bishops are taken away,—the rectors and vicars are reduced to a small stipend, and may, if they please, marry and increase their expences and their families, in proportion as the means of maintaining them are lessened. Are the wages of the labourers, the husbandmen, or the artificers, thereby increased? On the contrary, are they not paid in paper, which, against gold or silver, or any other commodity of real worth, in the estimation of other nations, loses one half of its nominal value? Is bread or meat cheaper than before? Do any persons but the landholders benefit by the suppression of the tythes? While the lands themselves, which in the hands of persons professing a religion which taught that their revenues ought to be employed in the service of the poor, are to be delivered into the possession of those very people who, fattening upon the spoils which they derived from the vices and exigencies

cies of the former government, are now to exchange paper for land, fictitious for real wealth. They only called upon the nation *formerly* for the interest of those debts, which they had forced the government by their artifices to contract; the whole of the lands of the kingdom were *mortgaged* to them to secure the payment, and they have now taken possession of their *pledge*.

Are the people in any degree benefited by these lands being taken out of the hands of the priests; whose profession obliged them in some degree to appropriate part of their revenues to works of charity and mercy, to be put into those of persons whose habitual employment has been to *calculate* how to employ their monies to the greatest advantage?

If any benefit shall result to the *landholder* by the suppression of *tythes*, and the duties on *salt* and *tobacco*; by the *abolition* of the *game laws*, *royalties*, *warrens*, *ferries*, *dove-houses*, &c. &c. will the poor or the farmer be benefited? Will not the landlord say, ‘ the reason
‘ why you paid *no more rent* for your
H ‘ land

‘ land before, was the expence and incon-
 ‘ venience all these burthens put you to;
 ‘ *you* are now subject to none of them;
 ‘ the present taxes are all paid by *us*; and
 ‘ you who cultivate *our* lands must by
 ‘ your labour enable *us* to pay those taxes,
 ‘ and for that purpose pay us such *an ad-*
 ‘ *ditional rent*, as will be sufficient to in-
 ‘ demnify us for this change of system?’

I may with confidence appeal to the
 common sense of all mankind, if this is
 not a necessary consequence; and from
 hence it must be manifest, that the pre-
 tended equality of mankind in society, is
 a tale only fit to be told to ideots; and
 that by whatever name you call them,
 the *people*, the great majority of mankind,
 must be the hewers of wood and drawers
 of water to those who by any means
 whatever possess that superiority of the
 goods of fortune, or of nature, which
 will enable them to nourish, clothe, or
 command others. The moral and phy-
 sical equality, which the generality of the
 people suppose to be meant by the famous
 declaration of the rights of man, is as im-
 practicable and absurd, as would be a pro-
 position

position to level all the mountains and fill up all the vallies on the globe ; and were either one or the other practicable, I fear each would be equally pernicious.

If the god of nature had, in his infinite wisdom, judged proper to have formed the world, or its inhabitants, in a different manner, or made their relative situations other than they are, he would have proportioned the means to the end.

The beautiful variety we at present find throughout the world ; the different powers, qualities and faculties, both of body and mind, which are so plainly distinguishable in men, are the gifts and endowments of their almighty creator ; and an attempt to change the order of nature, established by the deity, either by reducing the world to a plain superficies, or mankind to an equality, is as absurd and ridiculous, as the fabled attempt said to have been made of old by the giants, to scale heaven by heaping one mountain on another.

So impossible is it to establish the *philosophic* equality now contended for among men, that no half dozen people can be to-

gether as many hours, without the superiority of one over all, or some of the others, being evidently conspicuous, and in a society of any considerable number of persons, it is impossible but the difference between the mental or corporal abilities of the members of it, must give such a decided superiority to some over others, as to enable the few to command the many. Our present race of metaphysicians, therefore should, at least before they attempt to destroy the established distinctions among men in civil society, point out the time and place when and where a society has ever existed among men, in which the distinctions of lord and slave, master and servant, strong and weak, wise and simple, rich and poor, or some other marks which shew an allowed superiority of one or more over the others, have not in a greater or less degree been manifested.

It has been remarked with great propriety, that the inequalities on the surface of the earth, which appear to be so considerable, when a large mountain is compared with a neighbouring valley, will
not,

not, with regard to the whole globe, prove to be more considerable than those which will be found on a piece of wood viewed with a microscope; but which, looked at with the naked eye, appear perfectly smooth and polished. In like manner, when one particular man is compared with another, the superior strength, the capacity, or fortune of the one above the other, may be as evident as the difference in height between the mountain and the valley; but view mankind in the mass, and those distinctions will relatively appear as inconsiderable as the inequalities of the earth's surface.

C H A P. V.

ON THE EQUALITY OF THE PEOPLE, THE
PAYMENT OF TAXES, AND THE PRICE OF
PROVISIONS AT DIFFERENT PERIODS,

THE People have ever been the dupes of weak or wicked men, who have pretended to have their welfare at heart. The philosopher, in the recess of his cabinet, may form Utopian schemes for the government of mankind, which, if attempted to be reduced into practice, will be productive of nothing but anarchy and confusion. It is scarcely possible a great change can be made in the established constitution of any country, without such consequences attending it.

It may be safely affirmed of every government, however perfect it may be, that the changes and vicissitudes of all sublunary affairs, will, in time, render alterations necessary ; but it may with equal justice be affirmed, that none ever was so bad,

bad, that in order to its amendment it was necessary totally to subvert and destroy it.

The skilful physician will, in case of any disease his patient is afflicted with, endeavour, by cooling medicines, to allay too great a degree of inflammation, by corroborants to strengthen such parts as may become weak, and by proper restoratives to give new vigour to the vital principles, or heal and restore the diseased members, to their pristine strength and vigour; but will not madly for a felon on the finger, call on the surgeon to amputate the arm. The bold empiric will, perhaps, tell you, that the whole mass of blood being vitiated, the best way, in order to restore the patient to health, will be to change it entirely, and emptying the veins of the diseased subject of all the blood, transfuse that of some young healthy animal in its stead. Such an attempt has been made on the natural body, but I believe the patient died in the operation.

When the body politic is distempered, prudent people should act as a man of

common sense would do, whose friend is afflicted with sickness. He would call in the aid of the sober, discreet and learned physician, whose reputation was established by a long series of successful practice. He would not consult the impudent mountebank, who announces himself as the gratuitous benefactor of mankind; who, without any regard to his own interest, or that of his friends or countrymen, has quitted them all, in order more widely to diffuse the blessing of health to all mankind. The gaping croud, however, surround the man who professes such universal philanthropy;—they swallow his drugs and are poisoned. No sooner is one of these impostors detected and driven from the stage, but another succeeds, announces the same disregard of his own interest, the same generous attachment to all mankind, and the credulous multitude in vain expect from him relief, from their real or fancied disorders.

The public are equally imposed on by the political quacks, who promise them remedies for disorders which they endeavour

your

your to make them believe cannot be removed by the skill of the ordinary state physicians. The political mountebank fills his pocket and disappears, another takes his place, and the people are again duped.

Whenever I hear a man make professions of universal philanthropy, I suspect his head or his heart. If, upon examination of his private character, I find him fulfilling the duties of a good husband, an indulgent parent, a faithful friend, a kind master, and a charitable neighbour, I conceive he is mistaken if he supposes his sphere of activity will enable him to relieve, or that it is incumbent on him, as a man of humanity, to make himself unhappy on account of the miseries the natives of any distant countries, may suffer from famine or other public misfortunes. The kind and compassionate mind will feel a momentary uneasiness at the recital; but an unavailing wish to be able to administer relief, and a sigh is all the tribute he can offer. The cares, or the joys of the society he mixes with, will prevent his dwelling long on
the

the disagreeable scene, and like a dream it passes away.

This is all that a good and compassionate man will pretend to ; but when those who have villified and libelled their parents, abused the sacred rights of the marriage bed, and treated with the most infamous barbarity the unsuspecting females, who trusted them with the care of their persons and fortune ; who have betrayed and robbed their friends and benefactors ; treated their servants or dependants with cruelty and neglect, and expended the wealth which fraud and deceit may have supplied them with, in vice and debauchery : when such men, I say, propose themselves as patriots and defenders of the Rights of Man, I consider all their pretensions to promote the general welfare of mankind, as means they wish to employ, to deceive and gull the populace, and obtain that share of confidence and influence, which will enable them to govern and direct the people to the attainment of their own private and particular ends.

It

It is surely of great importance, to consider how the man to whom one talent is intrusted, employs it, before you increase your confidence in him. A man is certainly most closely attached to his parents, his wife and children, in the first place; to his friends, his neighbours, his countrymen next, and his affections weaken according as the objects of them are remote. It is true, that even the attachment he may have to the nearer objects of his regard, may spring from different sources, but as they are remote from their respective centres, they must grow weaker and weaker. A pebble thrown into a pool of water, generates a series of concentric circles. The first, more strongly defined than the second, and each grows weaker and weaker, till the undulatory motions, which are at first clearly visible and strongly marked, become scarcely perceptible:—another pebble falling near the first at the same time, occasions a like series of concentric circles, and those occasioned by each stone pass those of the other without interruption.

So

So fares it with the human affections ; they may spring from different sources, and be directed to different persons, but every one must allow the nearer the centre of each source, the stronger must be the effect ; and when very remote from it, there will be none at all, at least none that is sensible.

If this reasoning is just, we must conclude that the pretences of the *Mirabeaus* and *Paines* of the present time, to a superior regard for that part of the happiness of their fellow-creatures with whom they have little or no connexions, and of whom they have not the slightest knowledge, are no more founded in truth, than the promises of a mountebank. The one cheats the people of their health by assurances which, if fulfilled, would secure them immortality ; and the other of their happiness, by promises of a liberty, which the common people cannot enjoy, of an exemption from taxes, which they never did, or could pay, and a share of the government of the country which they never did, or can exercise.

The

The liberty of the bulk of mankind, which is what these pretenders to reformation gull the people with the promise of, never can be enjoyed by them in society; pleasant as the idea is in theory, it is impossible to reduce it to practice. The man who is dependent on another for his daily bread, and the subsistence of his family, must be perpetually in a state of slavery: he may think himself happy, if he has the liberty of changing one master for another; yet the inequality is, perhaps, less than is generally imagined. The master himself of that servant, whose assistance he cannot, without great inconvenience, dispense with, may be said also to be in a state of dependence on the servant, nearly similar to that of the servant on him.

“ In age, in infancy, on others aid, is all our hope,

“ To teach us to be kind; that Nature’s first, last lesson to mankind.”

So mutual is the dependence of one part of mankind upon the other, that we may truly assert, the only liberty which man can enjoy, or has a right to expect in society, is that of being governed by known
and

and good laws ; but there cannot be the least reason to assert, that every individual shall contribute to the formation of them, either by himself, or his representative. Whether the book of Ecclesiasticus be canonical or not, the passages quoted by Mr. Burke are so pregnant with good sense, that I cannot help citing them.

Eccle. c. 38.
v. 24. & seq.

The wisdom of a learned man cometh by opportunity of leisure, and he that hath little business shall become wise.

How can he get wisdom that holdeth the plough, and glorieth in the goad ; that dri- veth oxen, and is occupied in their labours, and whose talk is of bullocks.

He giveth his mind to make furrows, and is diligent to give the kine fodder.

So every carpenter and work master that laboureth night and day, and they that cut and grave seals, and are diligent to make great variety, and give themselves to coun- terfeit imagery, and want to finish a work.

The smith also sitting by the anvil and con- sidering the iron-work,—

So doth the potter sitting at his work, and turning the wheel with his feet :

All

All these trust to their hands, and every one is wise in his work.

Without these cannot a city be inhabited, and these shall not dwell where they will, nor go up and down.

They shall not be sought for in public council, nor set high in the congregation, they shall not sit on the judge's seat, nor understand the sentence of judgment.

They cannot declare justice and judgment, and they shall not be found when parables are spoken.

But they will maintain the state of the world, and all their desire is in the work of their craft.

The truth of these observations are proved beyond contradiction, by what has happened in the neighbouring nation. It not only has been judged necessary there to restrain the right of suffrage in the choice of representatives, to a comparative small part of the community; but it appears from experience, that those in whom such right is recognized, cannot be induced to make use of it. It certainly is not necessary, in order to define the nature of liberty, or to explain what are, in reality,

reality, the natural rights of men, to enter on any elaborate research into the metaphysical principles of politics and ethics, for I perfectly agree with Mr. M'Intosh, " that all theories which suppose the
 " actual existence of any state antecedent
 Note top. 206. " to the social, may be easily convicted
 " of futility and falsehood, and we must
 " allow, that whatever might be the
 " rights of man, he cannot, in society,
 " pretend to any but such as the laws of
 " each society shall preserve to him *.

Reflect. p. 82. Mr. Burke's position, therefore, " that
 " the whole organization of society be-
 " comes a consideration of convenience,"
 is indisputably just. *That society* is best organized, the laws of which are framed so as equally to protect the rights of every citizen, and wherever the laws are best executed, the government is the best.

It

* It is worthy remark, that the gentlemen who speak of the natural rights of men, imagine a state of nature which never existed, even by the confession of Mr. M'Intosh. Man is, by nature, a dependent as well as a social being, consequently considering man in the abstract, as unconnected with society and government, is as absurd as to consider fire as abstracted from the quality of heat.

It is not enough to amuse the people with the name of liberty, they must also be allured by promises, that they shall no longer be subject to the payment of taxes.

‘ See you not, say the deceivers of the
 ‘ people, how these tyrant masters, how
 ‘ these law makers, treat *you*, while *they*
 ‘ wallow in luxury and extravagance.
 ‘ Your labour and toil can scarcely pro-
 ‘ cure you the means of subsistence. They
 ‘ lay almost all the taxes which their ve-
 ‘ nality and extravagance make necessary
 ‘ upon the general articles of consump-
 ‘ tion. *Soap, candles, malt, hops, beer,*
 ‘ *leather*, and every thing which you are
 ‘ obliged to use, is so charged with im-
 ‘ posts of different sorts, that your very
 ‘ existence is at stake; it is time you
 ‘ should rouse yourselves; exert the natural
 ‘ rights of man, and “break your chains
 “ on the heads of your oppressors.”

Vin. Gall.
 p. 164.

Unless I found myself supported, in a great measure, by the celebrated Author I have before cited, Dr. Adam Smith, I should be almost afraid to hazard an assertion, which I request my readers not

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to

to reject as unfounded, till they have seriously considered the subject.

I assert, that the labouring people never do, never did, nor ever can pay taxes. I mean those who are not possessed of any other property than what they acquire by their labour.

It is an axiom as ancient as it is true, that *ex nihilo, nihil fit*:—

If a man has nothing, it is impossible he can pay any thing to government, but what is given him. A man who has nothing, works for the daily subsistence of himself and his family. In proportion to the number of hands and scarcity of employment, labour is cheap; if there are more labourers than work, the wages of the poor are lessened, they must work hard, and fare still harder.

The labourer will quit the country where he cannot find employment, and population will languish till the price of labour, and the means of subsistence become equal, or nearly so.

If, on the contrary, the quantity of labour or manufactures demand more labourers than can be met with, the price
of

of labour will increase, population must augment in proportion, by the influx of the poor of other countries, who want employment at home, or by the encouragement to matrimony, which the easy means of subsistence always favours, till the equilibrium between the price of labour and the means of subsistence be restored. Whether the necessaries of life be cheap or dear, the price of labour is always in proportion, or very nearly so: an accidental rise or fall in those articles may be attended with momentary advantages or disadvantages to the poor, “A man
 “ must live by his work, and his wages
 “ must be at least sufficient to maintain
 “ him*,” but cannot affect their general state. It may, however, be asserted, that for the most part, when provisions are permanently very high, and especially if such high price is owing to taxes paid by the consumer, the labourer lives better

Wealth of Nations, Vol. I, p. 83.

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and

* Wealth of Nations, Chap. 8. The whole of this chapter is so clear and pertinent to this subject, that a partial citation of it would be doing injustice both to the author and to my subject.

and receives higher wages in proportion, than when they are very low†.

In proof of this position, I refer my readers to the state of the poor in every country in Europe. Wherever provisions are dear, the wages of the labourer are proportionably so, or rather exceed the proportion. If, therefore, any taxes are laid on property, (and property alone can be a subject of taxation) whoever pays such tax, the poor who have no property cannot be injured by it. The justice of my assertion is manifest, by comparing the rate of wages in France and in England, before the revenues of those nations were anticipated by borrowing money on them, which has made it necessary to lay on taxes, to pay the interest of the money borrowed.

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† Whenever any instances can be produced in contradiction to the foregoing assertion, I doubt not it will be found to spring from bad laws or regulations respecting the poor. In this country, every person sees and feels the inconveniencies resulting from our poor laws; and, perhaps, none are greater than those occasioned by the restraints laid on the poor to prevent their moving from one parish to another, where they can procure more work or better wages than can be found in their own.

I could give innumerable instances to shew the truth of what I affirm, that there always is the same proportion reserved between the prices of the necessaries of life, and the price of labour, or nearly so, but I fancy the following account will be satisfactory :—

In the year 802, according to Mr. Voltaire, a livre of silver, in France, was a pound weight; a sol was the twentieth part of the pound; and a denier the twelfth part of a sol. Had this regulation always continued, the value of money at one time, might easily be compared with the value at any other; but that was far from being the case. By the ancient registers of Paris, in 1250, it is found a workman did not earn more than four deniers a day; the value of the coin was then so diminished, that four livres did not contain more than a pound of silver; so that those four deniers were not more than equal to 3d. of the English money of the present day; but as provisions were then six or seven times as cheap as at present, the four deniers could purchase as much of the necessa-

And. Hist. of
Commerce,
Vol. 1, p. 35.

ibid.

ries of life as thirty or forty sols, or 18d. or 20d. of the present English money.

We learn from Westcot's notes, on Selden's *Jani Anglorum facies altera*, page 113, that five Anglo Saxon pence made a shilling, and at that time an ox was worth but 2s. 6d.; or, supposing money to be then of three times the value it is at present, (the shilling at that period containing three times the silver it does now) 7s. 6d. of our money. The wages of the labourer must then have been so very low in proportion, that it was not possible for him to support his family, because we know that at this time, *the reign of Ethereld the Unready*, and even so late as the time of Canute the Dane, (when by Bishop Fleetwood's *Cronicon pretiosum*, it appears the price of provisions were at the same rate,) it was the custom of the Anglo Saxons, to sell their children to foreigners. This, surely, they would not have done, but because there was no employment for them, or that they could not subsist upon the wages then paid; or that like other savage people, they would not work.

In

In the year 1145, the same learned bishop informs us, that an ox was valued at only 3s. or 9s. of our money, nor was there any great difference in the general price of provisions, except wheat, for upwards of 100 years afterwards.— Yet no one the least acquainted with the history of those times, can be ignorant that the condition of the poor labourer, was in no degree so eligible as at present.

It is not easy to fix with precision, the average price of provisions in those very remote times, nor do we know exactly the rate of wages. In general the husbandry work was done by the *Serfs*, who were in a state of unconditional servitude, so that when we read of the wages of a workman being then 1d. or 2d. a day, we must understand those wages to be those of a master mason, carpenter, &c. and by comparing those wages with those of the like workmen at present, it will clearly appear how much lower the wages were then than now, allowing for the difference of the value of money, and the price of provisions, the rates of

Fl. Cron. Pret.

Hist. of Eng.

which we learn from the Cronicon pretiosum, were in the year 1299, as follows: *viz.* a fat cock $1\frac{1}{2}$ d., a heron 6d. a plover 1d. a swan 3s. a goose 4d. a fat capon $2\frac{1}{2}$ d. two pullets $1\frac{1}{2}$ d. a mallard $1\frac{1}{2}$ d. a crane 12d. two woodcocks $1\frac{1}{2}$ d. a fat lamb, from Christmas to Shrovetide, 1s. 4d. and all the year after 4d.— These prices seldom varied much, and as the penny then contained three times as much silver as at present, we might with some certainty say, that the prices of the necessaries of life were then about 6 or 7 times cheaper than at present.— For instance; a fat cock at $1\frac{1}{2}$ d. of that money, was $4\frac{1}{2}$ d. of the present, which multiplied by 6 is equal to 2s. 3d. a goose 4d. equal to 1s. is equal to 6s. a capon $2\frac{1}{2}$ d. = $7\frac{1}{2}$ d. $\times 6 = 3$ s. $9\frac{1}{2}$ d. But the great variation in the price of wheat, renders our calculations uncertain, and made a great difference in the price of necessaries. Wheat, for example, at the time I am now speaking of, was only 20d. or 5s. of our present money per quarter. The variation in the price of necessaries must have been very hard on the poor people, and

and provisions were, in a few years after, so very high, that in 1315, 8th of Edw. II. their prices were settled by Act of Parliament at the following rates: *viz.* A grass fed ox 16s. stall fed 24s. best cow 12s. a fat wether unshorn 3s. 4d. shorn 1s. 2d. a fat goose 3d. a capon 2½d.— Thus supposing living to have been then 3 Edw. II. six times as cheap as at present, and money, as it was, three times as valuable, the prices then, compared to those at present, will be found to differ very little; a pasture fed ox was sold at a price equal to 14l. 8s. at present, a wether 20s. a goose 4s. 6d. a capon 3s. 6d. but in this very year wheat was extravagantly high, and in 1316, and the beginning of 1317, was from 6l. to 12l. of the present money per quarter.

* Though I cannot learn what was the rate of labour at this particular period, there

* In the year 1335, the price of provisions in *London* is said in *Maitland's Survey*, page 124, to have been settled as follows:—

	s.	d.
Best Wheat, (the Quarter)	2	0
Ditto Ox,	6	8
		Best

there can be no doubt but it must have been in proportion to the rate of living, and indeed we find that to have been the case very soon after; as in the 25th of Edward III. the rate of wages was settled by act of parliament, by which master masons, carpenters, tilers, and other coverers of houses, were restrained from taking more than 3d. a day, equal to 9d. of our present money. Wheat was then equal to 20s. now, consequently provisions were then twice as cheap; but it is clear from thence, the wages at that time were less in proportion than at present.

In the year 1363, the value of money was something lessened; that is, there was less silver in the penny of that day than before. It was, however, still equal to

	s.	d.
Best Sheep,	0	8
Ditto Pigeons, six for	0	1
Ditto Goose,	0	2
Ditto Pig,	0	1

Whereupon, *Maitland* observes, "that the cheapness of
 " victuals was not so much owing to their plenty as to the
 " scarcity of money."

to about $2\frac{1}{2}$ d. and the rate of wages settled by Parliament, in that year, and in 1388, shews the same proportion between the rate of living and wages as there always had been, and we may venture to say always will be. Sixty years after the nominal wages were raised, but the value of money sunk in proportion, one shilling was then only equal to two at the present time; and, according to Bishop Fleetwood, in 1446, a free stone mason, or master carpenter's wages, were 4d. a day with diet, and without, $5\frac{1}{2}$ d.; a master tyler, rough mason, 3d. a day with diet, or $4\frac{1}{2}$ d. without. Soon after, in 1494, the value of money was again reduced, so that 1s. was only equal to 1s. 6d. of the present money, and wages rose accordingly. A master shipwright's daily pay, in 1514, being fixed at 5d. and 2d. for diet.

As within a few years after this, the nominal shilling contained only as much silver as at present, I forbear giving any more examples to prove that the taxes can never fall but upon property; and whatever may be the price of the necessaries of life, the wages of the labourer must always

And. Hist. of
Commerce, v.
I. p. 344.

ways be nearly in proportion to it. Accidental bad or good harvests, and other circumstances, may make a temporary alteration to the prejudice or in favour of the poor, as the occasional opening or shutting a sluice may make a change in the height of water, which will, however, soon find its level again.

From what I have said above, I hope I shall not be understood to alledge, that many of the poor of this country are not at times subject to great distress. When the necessaries of life are very high, the industrious single man is able to support himself by working four or five days in a week, on account of the price of labour being higher than the provisions necessary for his subsistence; yet, a man with a wife and numerous family, who perhaps may himself be disabled by sickness, or accident, from following his daily labour, may be unable to provide for them, will be subject to a variety of distress.

This always has been, and ever will be the lot of the poor in every country on earth. In general, the distresses of such

such deserving poor are alleviated by the humanity of their neighbours.

In Scotland, where there are no Poor Laws, I am told the charitable contributions of the inhabitants, collected at the places of public worship, are sufficient to alleviate the distresses of the people of that description,—being properly distributed, and no temptations being held out to the idle and dissolute, of living better in the workhouse *without labour*, than by what they can obtain by their *industry*.

It may, perhaps, be proper here to obviate an objection which may be made to what I have stated above, on account of the rate of wages, which are regulated in the several counties in England by the justices of the peace in their quarter sessions, not having been advanced for many years, although it is evident the price of meat, cheese, butter, beer, and many other of the necessaries of life having increased in a very great degree, I answer, that notwithstanding the fact be really as stated, it is apparent, in the present times the wages of a workman are fully sufficient to enable an industrious man
to

to bring up and maintain a family. Although many of the necessaries of life are much increased in price, yet it is to be observed, many others are very much lessened, and others introduced as substitutes which were before unknown, and are now attainable at a rate much inferior to what the provisions which the labourers were obliged to live upon formerly. To say nothing of all kinds of garden stuff, turnips, cabbages, cucumbers, onions, apples, &c. which make a great part of the most salutary subsistence of the families of the labouring poor in summer, it must be remembered, that *potatoes* supply the place of corn at a fourth part of the price of wheat. We must agree with Dr. Smith, that “ the complaint that luxury extends itself even
 “ to the lower ranks of the people, and
 “ that the labouring poor will not now
 “ be contented with the same food,
 “ cloathing and lodging, which satisfied
 “ them in former times, may convince
 “ us that it is not the money price of
 “ labour only, but its real recompence,
 “ which

“ which has augmented.” Wealth of Nations. Book 1st. p. 96.

It will, perhaps, appear from the foregoing observations, that the clamour made on account of the *privileges* and *exemptions* claimed by the *nobility* and *clergy* of *France* from certain taxes paid by the people, has even a narrower foundation than Mr. Burke seems to allow. As the great consumers of all the articles on which the heaviest imposts were laid, they certainly paid the greater part of all the taxes; and whatever was paid by the hands or agency of the workmen, was added to the material they worked on, with a considerable augmentation, to be paid by the purchaser. The exemption, therefore, of the possessor of great property from the payment of any tax, is rather imaginary than real. I beg to ask whether the tax on *hair powder*, *gloves*, *perfumery*, and many other articles lately taxed, fall heavy on the persons who pay such tax to government. For their advance of *money*, they are allowed, I believe, a *discount* of 10 per cent. and in addition to that advantage, they advance
the

the price of the commodity on their customers in every article where they have an opportunity. The additional tax on hair powder is, I believe, 5s. the cwt. the shopkeeper raises his price 1d. the lb.; the additional tax on beer amounts to less than $\frac{1}{4}$ d. the quart, the consumer pays $\frac{1}{2}$ d. will any body suppose the labourer to pay this addition, without his employer gives him not only the $\frac{1}{2}$ d. to pay the publican, but something more as a gratification for the trouble he has in making the payment. Thus, perhaps, (for I do not intend to write a critique upon the nature of taxation) it will appear that the least *burthensome*, as well as the most *productive* mode of laying taxes, is by receiving them as much as possible from the *consumer*. If that should be true, a territorial impost, or land tax, must be the worst of any. The *landlord* must raise the rent of his land on the *farmer*; the *farmer*, of all the produce of the ground on the person he sells it to; the *miller*, the *baker*, the *tanner*, the *currier*, the *leather cutter*, &c. &c. must all, in their turns, raise the price of their several commodities, in a
kind

kind of geometrical progression, on the *opulent* consumer. The labourer, however, must have his wages increased in proportion to the advanced price of provisions; he must have wherewithal to purchase the necessaries of life, or he can work no more. The whole machine stands still,—the land will no longer produce, and consequently can no longer pay the necessary taxes to the public.

That there are many difficulties in levying taxes on the last consumer, I am ready to allow. The army of collectors, many of whom will be negligent or corrupt; the power they must be entrusted with to make their ministry effectual, which gives them an opportunity of exercising infinite oppressions on the persons from whom the taxes are to be collected, are of the number; among those, many will strive by every means in their power to evade the payment, and defraud the revenue of *that money*, which they have received in the *price of their labour*, or of their commodities, for the implied purpose of paying it to these agents of the fisc; all these are strong objections to

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such

such a mode. Perhaps it would not be difficult to particularise certain instances of these inconveniencies in this country ; but I rather decline the task, as I am unable to point out a remedy. I will, therefore, only refer my reader for an example to the oppression which the poor suffered from the manner in which the duties were collected in France on salt. In those provinces called *Pays des Gabelles*, the tax was extremely heavy ; salt is certainly a necessary of life. The farmers of that tax might say to the peasant, you cannot do without a certain portion of it, you must, therefore, take a certain quantity, for which you shall pay the fixed price. Had they stopped there, perhaps no great harm would have been done. The peasant would have known what additional advance of wages would have enabled him to pay the price, but the quantity he was obliged to take, was, perhaps, insufficient for his use ; it was, therefore, his endeavour to procure what he further required, in fraud of the revenue. It was an article easily conveyed, and not difficult to conceal.—

The

The vigilance of the agents of the *fermiers* was encouraged by their superiors. Real or pretended discoveries of fraud, recommended them to notice, to *rewards*. Salt-water, by being evaporated, would easily supply the wants of the peasant. The discovery of the peasant's boiling his morsel of meat in sea-water then, was considered as an offence. The discovery of such offences put a whole family in the power of a rapacious or licentious officer. This, perhaps, I shall be told is only one of the inconveniencies attending the collection of the revenue from the consumer. It was surely, however, sufficient to occasion the abolition in that particular instance, unless it could have been collected, so as to remove the objection; but although it may be a very strong objection to that mode of collecting the taxes, it by no means invalidates my position, "that property alone can be
 "productive of revenue; and that the poor
 "who have nothing," never can pay taxes, without receiving the money which they are to pay, from the persons on whose
 K 2 land,

land, and in whose service they are employed.

If people thus are cheated into revolt and insurrection, by the expectation of relief from taxes which they never paid; they are not less the dupes of the promises which are made them of becoming sharers in government, if not individually, yet by their representatives.

C H A P. VI.

ON REPRESENTATION, SHEWING IT TO BE
FOUNDED IN PROPERTY.

I HAVE ventured in a former part of this essay to affirm, that the representation under the ancient feudal system, was the most perfect that the then state of society appears to have been capable of,—I mean the most perfect representation of property. That *property* alone is *capable of representation*, and that in *property alone* government can be founded, I do not think difficult to prove.

Under the ancient feudal laws all persons possessing land were members of, or were represented, first, in the *folcmote*, afterwards in the *hallmote* of the *knight* or *vavasor*, to whom they owed suit and service. These *knights* or *lesser lords* of

manors, represented their tenants in the fokes or seigneuries of the *greater barons*, and took care of their tenants interest; as their own were in turn represented, and their interest taken care of, by the great barons or tenants in capite, called by the Roman authors *capitani*, from their being *capital* or *original* sharers with their leader, as well in the lands acquired by, or settled by them jointly, as in the government of the land so acquired or conquered. These tenants *in capite* owed suit and service to the king, to whom they were assessors, and represented the inferior lords in the great foke or seignury of the nation.

Without *their consent* no laws, *binding* upon the nation in general, could be made; neither could laws be made in the *court baron* or *hallmote*, without the consent of those *vavasours* or *knights*, who, as *freeholders*, were in like manner assessors in the courts of their respective chiefs. By these means, the whole property of the kingdom was completely represented,

As

As to every *individual* entering into a *compact* each with the other, by virtue of his own sovereign right ; it is an idea only worthy of a man, who can assert, that the government of England has existed for so many centuries without a *constitution*, or that a constitution is *antecedent* to government ; a jargon which may sound very musical in the ears of people who appear desirous of overturning all government whatever. That Mr. Paine and those who have distributed his seditious, if not *treasonable* publications, have used, and are using their utmost endeavours to distract and destroy *that* which at present exists in this country, must be evident to every well-disposed subject who reads it ; — how far the vengeance of the offended laws of that *constitution* of which he denies the *existence*, ought to fall on the head of the man, who, born in this kingdom, dares acknowledge himself to have been the secretary for foreign affairs, to persons who were in *open war* against his lawful *sovereign* ; or on the heads of those who publish and recom-

mend such a performance, is not for me to determine. I remember last war a person was condemned for treason for *corresponding* with the enemies of his country ; how far *Mr. Paine* is guilty of the same crime, *professional men* are the best judges. But every man must *judge* of the absurdity of his denying that the subjects enjoy *liberty* in a country in which, after such crimes, he has been permitted to re-appear with *impunity*.

Every reasonable man will suppose that each individual will be careful of what he possesses, in proportion as such possession is more or less important, or necessary to his happiness.

The landholder whose estates are very considerable, will naturally employ both his consideration and his time in the preservation of them. The income he derives from them, leaves him at liberty to reflect on the means by which those desirable ends may be obtained. Not being obliged to give up any part of his time to procure his subsistence, and that of his family ; he is able to employ that time in the improvement of his mind, and in those

those studies which will best qualify him to advise, to direct, and, perhaps, to defend those whose possessions being less considerable, are forced to employ part of their time in occupations of a different nature. Still, however, these having property, though in a smaller proportion, it will naturally lead them to attend to its preservation: they cannot, however, spare more than a limited degree of attention to other objects, than those which regard the immediate welfare of their families. Those, who having no possessions, are obliged to depend on their daily labour for their daily bread, can spare no part of their time either to improve their mind, and render them capable of judging of the best and fittest means of promoting the general welfare, or their own particular happiness, or to chuse proper persons to take care of their interest.

I should apprehend that cool reflection alone, would induce men of understanding to conclude, that the people in general, who are of the class last mentioned, would not at all intermeddle in the choice of their governors, or in the
conduct

conduct of those who are to make such choice. Their interest is too small to induce them to leave their usual and necessary occupations, for purposes which are not absolutely conducive to their happiness, or, to speak more properly, to their support. But if cool reflection *a priore* would not shew us, that the people will not leave their labours for the purpose of chusing themselves *representatives*, experience will, surely, convince us the fact is so.

In England, the choice of representatives to serve in Parliament are, in some places, in all the *male* inhabitants; in others, in those only who pay to *church and poor*, or in those who are stiled *freemen*; and in others, in the *freeholders*. In proportion as the several persons who have a right of voting are without property, if they are not more venal than those of a higher rank, they hold their voices at a lower *price*. The considerable freeholder at his own expence attends to support the candidate of his choice; his interest is exerted to procure the suffrage of his *less wealthy* neighbour, and his influence presses

presses too strongly on his *tenant* or *workman*, not to prevail. These, in like manner, *influence others*, who, though inferior to them, are possessed of sufficient property to give them a right of voting. The opulent burghers or freemen, like the considerable freeholders, give their own voices *freely*, and *influence* their inferiors. The same may be said of the opulent inhabitants, where no particular franchise is necessary; but it is notorious, that if all the lower orders do not consider their voices as a marketable commodity, yet they are subject to the *influence* of their *superiors*. Those at a distance who have a right of voting, and who, though not opulent, can, without inconvenience, leave their business for a day or two, at least demand to be conveyed to and from the place of election free of expence, and to be *maintained* during their *absence*; others, whose families must also be maintained while they are not at work, demand as much, or more, for that maintenance than they could otherwise have earned; and the still more indigent voter sells his suffrage to the highest bidder.

Should

Should it be objected to me, that by the foregoing account, it appears one kind of voter is not more venal, or under influence, than another, I shall be ready to confess it in a certain degree; for, in reality, man is so dependent a creature, that each must be, in some degree, in submission to another, which is a farther proof of those visionary pretensions to equality. There is, however, a very great difference between the manner in which the influence of the candidate, or his friends, is exerted over one kind of voter and another. The *freeholder*, *citizen*, or *burgher*, who is a man of education, or in elevated or easy circumstances, will be influenced by very different considerations from those which actuate the common *pot-wallopers*. To one you may point out how much his most essential interest depend on the integrity and knowledge of his representative. Another may be influenced by the character, the opulent fortune, the munificence of his neighbour, and the certainty that he can do no *injury* to the *public*, without feeling the evil consequences *himself*, and incurring the resentment

ment or contempt of his friends and neighbours. But the voter without property will, with reason, say, ‘ I am in a
 ‘ situation which has very little chance of
 ‘ being amended, injured, or diminished by
 ‘ any law which the Parliament can make;
 ‘ the *two*, the *five*, or the *ten* guineas, and
 ‘ the *meat* or *drink* which is bestowed on
 ‘ me are *present* advantages; I will give
 ‘ my *suffrage* for the man who offers me
 ‘ the most.’

Let us cast our eyes on the *constitution*, which has given occasion to the present observations. The late Assembly of France saw how improper it was that persons not possessing property, should vote in the choice of representatives. Contrary, therefore, to the principles of freedom and *equality*, which they declare to be the basis of all their proceedings, they disqualify all those men, who, having no property, seem, according to Mr. M‘Intosh, to be better intitled to have the right of suffrage than any others, “ because
 “ possessing life and liberty, which are
 “ more sacred than property, depriving
 “ *them* of the right of suffrage, is depriv-
 “ ing

Vind. Gal.
 Note p. 266.

“ ing them of the only shield by which
 “ they can be guarded ;” perhaps when
 we consider, that persons, possessing *pro-*
perty, do at the same time *possess life* and
liberty, Mr. M‘Intosh’s reasoning may
 not appear quite conclusive ; for although
 in the passage last quoted, he speaks of
 not allowing every man a right of choos-
 ing representatives, with such marked disap-
 probation ; he afterwards makes an ac-
 knowledgment, which shews such right
 to be impracticable. He confesses “ the
 “ wealthy are formed into bodies by their
 “ professions, their different degrees of
 “ opulence, (called ranks) their *know-*
 “ *ledge*, and their small numbers. They
 “ necessarily, in all countries, administer
 “ government, for they alone have skill
 “ and leisure for its functions : thus cir-
 “ cumstanced, nothing can be more evi-
 “ dent than their inevitable preponder-
 “ ance in the political scale.” He ac-
 knowledges also there is a necessity that
 an equality of fortune should exist, “ be-
 “ cause property alone can stimulate to
 “ labour ; and labour, if it were not ne-
 “ cessary

Vind. Gal.
 P. 68.

bid, p. 67.

“ cessary to the *existence*, would be indispensable to the *happiness* of man.”

The Assembly, however, were not content with depriving persons of no property of the right of suffrage, but have also laid *domestic servants* under a like disability, even should they possess all those other qualifications which constitute an *active citizen*. This must have been done, because they supposed such domestics might be under the *influence* of their *masters*; yet as their principles and practice are constantly at variance, they allow persons who rent a house valued on the rolls of the *contribution direct*, at 100 to 150 days labour (suppose 100 or 150 livres or a farm or meadow of the yearly value of 400, about 14l.) not only to vote in the primary assemblies, but also to be chosen an *elector* to name the *representatives* to the general Assembly. Thus the man who rents a farm of much less yearly value than the annual wages of a domestic, and who if turned out of such farm, would be much less likely to get another, is not supposed so much under the influence of the *landlord*, as the domestic

mestic who receives *wages*, which he could, perhaps, with *great facility* procure from *another master*.

I believe the letting farms *for a long term* of years, is not very *common* in France, and a tenant at will of the house, which from its situation is perhaps necessary to his *trade*; or of the *farm*, the *profits* of which are the only means of his providing for his family, is surely much more under the *control* of the proprietor, and more *subservient* to his will, than the *domestic* to that of his *master*.

The inconveniencies, the contradictions, and the impracticability of the mode of representation adopted by the National Assembly of France, have been so justly pointed out and exposed by Mr. Burke, in his *admirable reflections* on the French Revolution, that I might, with propriety, have contented myself to have referred my reader to what he has said upon this subject, especially as Mr. *M^r Intosh* joins with Mr. *Burke* in reprobating the conduct of the National Assembly, who, he acknowledges, have deviated from the great principle prescribed

scribed by the natural Rights of Man,
 “ That principle which is the basis of
 “ their edifice ;” and which, if convicted
 of *falsehood*, “ the whole *structure*
 “ must *fall* to the *ground*.” Yet, as I
 have asserted the definition of these pre-
 tended natural Rights of Man, by the
 National Assembly, to be erroneous, I
 hope I may be excused in endeavouring
 to add additional proofs to those which
 Mr. Burke has already produced, of the
 impropriety of endeavours to establish a
 government on rights which cannot be
 exercised. The 6th article of this boasted
 declaration establishes it as one of the
 natural and unalienable Rights of Men*,
 that the law being the expression of the
 general will, every citizen has a right to
 concur personally, or by his representa-
 tive, in the formation of it ; and the 14th
 article in like manner affirms it to be the
 right of every citizen, by himself or his re-
 presentative, to consent to the establish-
 ment of the taxes necessary to the public
 service. L If

Vind. Gall.
 p. 204.

* La loi est l'expression de la volonté général. Tous les
 citoyens ont droit de concourir personnellement ou par leurs
 représentans à sa formation. *Decl. of Rights, Art. vi.*

If I have proved to the satisfaction of my reader, that persons not possessing property cannot pay any part of the public impositions, I conceive that part of the declaration of rights might have been omitted ; and unless Mr. M'Intosh, or some more able advocate for the French revolution, (for he certainly is the ablest I have yet met with) can shew an instance where the citizens of any country, ever did exercise the pretended unalienable or natural right to chuse their representatives, I might fairly conclude no such right exists ; but I think I may avail myself of the concessions of that writer, to shew that the exercise of such a right is impracticable.

Gal. Vin. p. 222. Mr. M'Intosh acknowledges the justice of the remark, “ That a multitude, “ if it was composed of *Newtons*, must be “ a *mob*. Their will must be equally “ unwise, unjust, and irresistible ; their “ authority, the despotism of the rabble, “ not the dominion of the people.

Ibid, p. 224. “ In discussing the *new constitution* “ of France,” says Mr. M'Intosh, “ the “ first question that arises regards the “ *mode*

“ *mode* of constituting the legislature,—
 “ and the first division of this question
 “ which considers the *right of suffrage*,
 “ is of primary importance in common-
 “ wealths. Here I most cordially agree
 “ with Mr. Burke in reprobating the
 “ *impotent* and *preposterous qualifica-*
 “ *tion* by which the Assembly have *dis-*
 “ *franchised* every citizen who does not
 “ pay a *direct contribution*, equivalent
 “ to the price of three days labour; no-
 “ thing can be more evident than its
 “ inefficacy for any purpose but the dis-
 “ play of inconsistency, and the *viola-*
 “ *tion of justice*.

“ The most conspicuous leaders of the Vind. Gal.
 “ popular party, M. M. Mirabeau, Tar- p. 225.
 “ get, and Pethion, more particularly
 “ distinguished themselves by their op-
 “ position to this arrangement; but the
 “ more timid and prejudiced members of
 “ the democratic party, shrunk from so
 “ bold an innovation in political sys-
 “ tems *as justice*.”

Mr. M'Intosh comforts himself, not-
 withstanding, that the *injustice* of pre-
 venting this *multitude*,—“this corrupt

“ and *tumultuous populace*,” from being
 admitted to the choice of their represen-
 tatives, will be but short-lived, because
 “ the number of primary electors is at
 “ present so great, and the importance
 “ of their single votes so proportionably
 “ *slender*, that their interest in resisting
 “ the extension of the right of suffrage,
 “ is *insignificantly small*.” I cannot help
 being of a different opinion from Mr.
 M‘Intosh, and think, that so far from the
 small importance of the votes of the pri-
 mary electors being the probable means
 of extending the right of suffrage, that
 it will operate in a manner directly con-
 trary. If the single votes of these pri-
 mary electors are of small importance,
 if the voters are not induced to assemble
 to give their votes, for some important
 reason, they will not meet or trouble
 themselves to travel to a distance, to the
 neglect of their business, for a purpose of
 no advantage to themselves,—that this
 will be the case is more than probable
 from what has already past. The tepi-
 dity of the electors, even while the pa-
 roxism of the *fever of liberty* might be
 supposed

Vin. Gall.
 p. 227.

supposed to be highest, appears from the speech of Mr. Chapelier, on the 12th of August last, wherein he observed, “That
 “ the electoral assembly at Paris, was re-
 “ duced to 200, and that in the depart-
 “ ment of the lower Seine, the richest
 “ in the kingdom, 160 electors *only* pro-
 “ ceeded in the elections, which lasting
 “ three days, there attended on the third
 “ only 60; thus, at this moment,” adds Mr. Chapelier, “do not you see that
 “ your elections are reduced to a few in-
 “ triguing people?”

When Mr. M'Intosh coolly considers the impracticability of getting the many together, and the want of wisdom and injustice of their decisions when they meet, he will not even think territorial or financial representation so monstrous. That it is a relick of ancient prejudice I allow, and I am one of those who consider the *institution of our ancestors*, with some degree of *respect*, not to be changed or departed from without good reason.

Mr. Burke observes, “that old esta-
 “ blishments are tried by their effects.”

Reflect. p.
255.

What were the effects of those old establishments in France, and what they still are in England, we are well acquainted with. The people of the one kingdom *were*, and of the other still *are*, *happy, wealthy and powerful*; and notwithstanding the efforts of the foes of England, and of mankind, I hope we may still be considered as an united people.

That there were things to reform in France,—that there are things to reform in England, is certain; but many of the most essential parts still remain as perfect as human wisdom can make them. “To
 “preserve and to reform is surely desirable;
 “but when the useful parts of an
 “old establishment are to be kept, and
 Refl. p. 249. “what is superadded is to be fitted to
 “what is retained; a vigorous mind,
 “steady persevering attention, various
 “powers of comparison and combination,
 “and the resources of an understanding
 “fruitful in expedients, are to
 “be exercised.”

Was it my design to reply to Mr. Paine's Rights of Man, or Mr. M'Intosh's Vind.

Vind. Gall. it would, perhaps, be sufficient to shew, that the members of the late National Assembly, could not possibly have any right to change the ancient laws of the kingdom. They certainly were *not* the representatives of the people of France, chosen consistent with the principles either of Mr. Paine or Mr. M'Intosh; and if this assembly of persons, by whatever name they have been pleased to distinguish themselves, were chosen or appointed by those who had no competent authority to make such choice, they were not the representatives of the people. This certainly could not be that pure and equal representation Dr. Price sighed after, without which, he asserts, "Government is nothing but an usurpation." If, however, the defenders of the new constitution should contend for the National Assembly being duly chosen, the electors had certainly a right to ascertain the powers they confided to their representatives, and limit the exercise of those powers, both as to extent and duration. If they exceeded or

Discourse on
the Love of
our Country,
3d Ed. p. 39.

Rights of
Man, p. 108.

Vind. Gall. p.
129.

acted contrary to the authority given them, their *power* was an *usurpation*, and upon the principles of Mr. Paine and Mr. M'Intosh, no part of their proceedings can be justified or be binding upon their constituents. The former of these gentlemen thought necessary to contend, that the late assembly were the legal representatives of the people of France, though he is forced to acknowledge that the *third part* of the *estates general*, which was the *name* of the *united* representatives, declared themselves *alone* to be *such representatives* of the nation; and Mr. M'Intosh, to confess the truth of Mr. Burke's observation, that in this portion of the estates general, "no vestige of the representation of any part of the landed interest of France was to be met with." Mr. M'Intosh indeed was too well convinced, that there was not a semblance of just representation in the late assembly; and, therefore, in a section of near 50 pages, wrote expressly on the
com-

position and character of the National Assembly; he does not attempt to speak of them as the representatives of any body of men whatever; to shew that if they were, they betrayed the confidence reposed in them, I refer the reader to the very excellent work of Mr. de Calonne, who points out the progressive steps by which they completed their usurpation.

“ They met,” says he, “ under the
 “ denomination of *Deputies of the As-*
 “ *sembly of Balliages to the Estates Gene-*
 “ *ral*; soon after they thought proper to
 “ call themselves *The National Assembly*,
 “ next *exclusive depositaries of the Constituent*
 “ *Power*. From their first duty of *reform-*
 “ *ing abuses* they exalted themselves to the
 “ rank of *regenerators of the State*, next to
 “ sovereign *Legislators*, without the co-
 “ operation of any one. Not contented
 “ with these attributes, they hastened to
 “ invade the executive, administrative, and
 “ judicial power, and concluded with de-
 “ fending all these usurpations, under a
 “ claim of that unlimited authority which
 is

L'Etat de la
France, p.10.

“ is supposed to belong to a *national convention*.”

To shew in what manner they have disobeyed all the instructions of their constituents, I must refer my readers to Mr. Calonne, Etat de France, p. 122, &c.

CHAP.

C H A P. VII.

 ON THE REPRESENTATION IN THIS
KINGDOM.

UPON the whole, therefore, notwithstanding Mr. M'Intosh's assertion, "that lands or money *cannot*, and that "men only *can* be represented," I must still revere the wisdom of our ancestors, who considered persons possessing property the only *proper electors* of the representatives of the *people*; and, in proportion to the extent of their property, themselves the *properest representatives* of all the others. It is *worthy remark*, how far this principle has operated in the representation of this nation in Parliament, and the very beneficial effects it has been attended with. In the origin, when the only wealth and *property* in the kingdom consisted of *land*, the representation was
strictly

Brady, p. 687. strictly confined to the persons who possessed such property; who were the *feudal lords*; who, in consequence of their possession of *territory*, had a proportional *jurisdiction* over those who held *property* under them. They were not only the *representatives* of their people to protect their *interest*, but they were also as *kings* or *judges*, to administer *justice* in their courts of *judicature*.

A celebrated *author*, for whose judgment I have the highest respect, thinks it is a mistake to imagine that those *territorial jurisdictions* took their origin from the *feudal laws*; he says, “not only
 “the highest jurisdictions, both *civil*
 “and *criminal*, but the power of *levying*
 “troops, of *coining money*, and even that
 “of making bye laws, for the govern-
 “ment of their own people, were *all*
 “rights possessed *allodially*, by the great
 “proprietors of land, several centuries
 W. of N. vol. 1. p. 499. “before even the *name* of the *feudal law*
 “was known in *Europe*.” But with all
 due deference to *Dr. Smith*, the pos-
 session of lands *allodially*, or in *Franc aleu*
 is a proof of the existence of the *feudal*
law,

law, although it is said, “ *Allodium*
 “ *enim est proprietas, quæ a nullo re-*
 “ *cognoscitur.*” Yet *Ferriere* observes,
 “ Quoique les héritages allodiaux ne re-
 “ *levant* d’aucun seigneur, ils sont nean-
 “ moins sujets à *confiscation*, le même
 “ que les *Feodaux* et *Roturiers*, comme le
 “ remarque Mr. Ch. Domoulin, sur
 “ l’article 46 de l’ancien coutume de
 “ Paris.” Some parts of the lands held
allodially were granted by the lords or
 possessors, to their *soldiers*, on condition
 of *military service* only for life, and their
 grants were called *feuda*; and other parts
 on such other conditions as they judged
 proper, so that certainly the *feudal law*
 was not introduced into England at the
Norman conquest, as Mr. Paine ignorantly
 supposes. Indeed all the *manors* record-
 ed in *doomsday book* were *manors* in the
 time of the *Saxon* government; and what-
 ever particular changes might have been
 introduced by William, the *Norman*, as
 well as the *Saxon lords*, whose lands re-
 mained in their possession, insisted on
 holding them under the same *tenures*, by
 which they were *formerly* held, agreeable
 to

to the *ancient laws* of the kingdom, by which the regular *subordination* spoken of by Dr. Smith had *long* before been established.

Bishop Nicholson distinguishes the existence of the *feudal law* into four different periods: 1st. From its *commencement*, at the irruption of the northern nations into Europe, to the year 650.—2dly, Its *infancy*, from that time to the reign of the *Emperor Charlemagne*, in 800. 3dly, Its *youth*, till the year 1027. And 4thly, Its state of *perfection* shortly after.

But as industry and commerce diffused property more widely, the right of representation was extended. In the year 1258, an addition of twelve persons was made to the number of persons who sat in Parliament, chosen by the Commons to represent them. These, however, were all *bishops*, or other *great tenants* in capite. In 1268, the estates of the great barons having been still further divided, the parliament held *at Marlborough* in that year, consisted of a still greater number of members. The king summoning such of the *great tenants in capite*

capite as he pleased, in 1276 smaller tenants in *capite* were summoned by the sheriffs of counties to attend to represent the commons, whose property was at this time much increased. In 1295, the writs were sent to the sheriffs, directing them to summon *two knights* for each *county*, *two citizens* for each *city*, and *two burghers* for each *borough*, to be at the parliament;* still, however, upon the same principle.

Rel. Spel. p.
63, 64.

Dugd. Parl.
Sum. 7.

The property of the commons was then *increased*, but their proportion was *comparatively* so small, that they were summoned only to *consent and agree* to such things as the earls, barons, and peers of the realm, who possessed so much larger a share, should *ordain*. From that time to the time of queen Elizabeth, the representatives of the commons in parliament were sent from the wealthiest boroughs; and not seldom, when a borough was fallen to decay, which had been accustomed to send *burgesses* to parliament, the

* It is to be remarked, this is the first regular summons of the representatives of the commons to parliament.

4 Inst. 49.

the sheriffs neglected to summon them, or they petitioned to be excused from that burthen, and with very great propriety; for as they found themselves with very *little property*, they justly thought they might leave the care of it to those who, having more, were more interested in its preservation.

Mirror Pref.

From the time of the *first crusade*, property became more and more diffused, and as the Commons became possessed of it, their power increased with it. Those of the commons who came to the *witenagemote*, or parliament, at first came only to hear and (like the people who attend the tribunes at the national assembly of France) *to applaud* those laws which pleased them. When regularly summoned, their consent was necessary to granting *aids* and *subsidies*; thus, in proportion as they became possessed of *property*, they became possessed of *power*. Their property being at first small, their suffrage extended only to regulate the manner in which they were to contribute a part of their fortune to the general defence; but the manner, and the occasion of employing it, was left to the barons

barons who were summoned *de arduis negotiis regni tractatura et consilium impensuri*, while the commons were summoned *ad audiendum, et faciendum, et consentiendum* only. They were not consulted in state affairs about peace or war, or making of laws, their business being only to consent to such laws as were made by the king and barons, and to consent to aids and subsidies, and such like, *ad habendum commune consilium de auxiliis assidendis*; and in proof of this I observe, that even so late as the year 1349, the 2d of Edward III. the commons declined to give their opinion on the question of the war with France, alledging their *inability* in excuse, requesting the king to *consult* thereon with his nobles and council.

4 Inst. 10. 10. 11. 12.

Antiq. of N.
C. 284.Cotton's Rec.
51.

So much then did suffrage depend on property; and so perfectly were our ancestors convinced that the aids and subsidies could *be paid* by people of *property only*, that the commons who sent burgesses to parliament, paid the expences or wages of those who represented them. The barons and persons of great property bore their own expences, but paid no part

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of

Cotton's Rec.
p. 164.

Regist, 191,
192.

of the wages of the burgesſes ; and when the commons, in the 1ſt of Richard II. petitioned the king in parliament, that all perſons whatſoever, having lay fee, might contribute to the expences of knights, citizens, and burgesſes, the king answered, that the lords of the realm could not ſo loſe their own liberty and privileges : and by the writ in the register it appears, that the tenants in *ancient demefne*, or *copyholders*, or rather the perſons who held land in *baſe ſocage*, the predeceſſors of the preſent copyholders having no property but what they held at the will of their lords, were excuſed from paying any part of the wages of the burgesſes by theſe words : *De expenſis militum, non levandis ab hominibus de antiquo dominico, non ab nativis*. This is ſurely a proof, that if *property* could not be *repreſented*, as Mr. M'Intosh aſſerts, that our anceſtors thought the perſons who poſſeſſed it, were thoſe only to whom repreſentation was beneficial ; and from that to the preſent time the doctrine has prevailed, and the power of the commons has increaſed in proportion as their ſhare in the wealth of the nation has augmented.

mented. That *power* and *property* were inseparable companions, was well understood by that politic and wise prince Henry VII. who, to lessen the authority of the lords, facilitated their means of disposing of the lands which they held in capite, by setting the fines of *alienation* very low. This policy of his was improved on by his son, who, in the thirty-second year of his reign, by an act of parliament then passed, made it lawful ^{32 Hen. VIII.} to alienate socage lands, by will or deed, and two parts in three of lands holden in *knight service*; add to which, that great part of the lands of the dissolved monasteries falling into the hands of the wealthy commoners, what might naturally be expected really happened; the *power* of the *commoners* increased with their *property*, so as to be more than a balance for that of the lords: but still their power depended upon territorial possessions; *commercial* or *financial* wealth, as Mr. M'Intosh calls it, had not yet sufficiently increased to have its *weight* and *importance* duly considered, and the *representation* was still the representation of *landed property*. As

a proof of this, I shall just mention, that in the 18th year of Elizabeth, Lady Packington, widow of Sir John Packington, returned the burgessees of Aylesbury to parliament by *her own* authority. The words of the return are preserved by Dr. Brady, in his Historical Treatise of Cities and Burghs, in the following words: Know ye that I, Mary Packington, &c. have chosen, named, and appointed my trusty and well-beloved Thomas Litchfield and George Burden, Esquires, to be my burgessees, for my said borough of Aylesbury, &c.

Brady App.
35.

Soon after the beginning of that queen's reign, by the encouragement given to commerce, a vast addition was made to the wealth of the nation. From this time we hear no more of boroughs petitioning to be excused sending members to parliament. It was necessary that *this wealth, this property, or the persons who possessed them, should be represented.*

Those counties, cities and boroughs, which were under the influence of the rich landholders, could not chuse the man whose wealth was the produce of the
land

land of another country ; for it must always be remembered, that when I speak of *wealth*, I mean the *produce of land*; there being, in my idea, no other real wealth whatsoever. Gold, silver, jewels, &c. I consider only as the representatives of that wealth, which, independent of any conventional stipulations, must be universally esteemed such, *viz.* what is necessary for the subsistence of man, as corn, wine, oil, meat, wool, &c.

To protect this new and *unrepresented property*, money, the representative of that property was employed, by persons possessed of commercial or financial wealth ; (that is, the wealth the *produce of foreign land*) to obtain that share in the representation of Parliament that their property intitled them to. Thomas Long was discovered to have bribed the mayor of *Westbury* with the sum of 4*l.* to be returned burghers for *Westbury*. His election was declared void, and the mayor expelled the house, for such corrupt conduct. This is the first instance of the like bribery upon record ; but there can be little doubt but that the

4 Inst. 23.

Willis, p. 495,
554.

Brady's
Tracts, 37.

voters, some how or other, found their account to choose burgesſes, when the members of many boroughs, who had formerly petitioned to be excuſed ſending burgesſes to Parliament, becauſe they could not bear the expence of paying their wages, thought it worth their while to petition to be reſtored to that which they no longer conſidered as a burthen, but as a privilege.

Had only a few boroughs ſought a renewal of their former right of ſending members to Parliament, the allegations in their petitions of increaſed *wealth* and ability to ſupport the charge, before too heavy for their circumſtances, might be conſidered as true; but when we find that the number of ſuch boroughs were ſo conſiderable, as to exceed what before were accuſtomed to ſend representatives, which in the year 1546, the laſt of Hen. VIII. amounted to no more than 126, (all above that number having been revived, or new made, ſince that time) it is evident, notwithſtanding the ſeverity of Sir Edward Coke's animadverſions on the conduct of the mayor of Weſtbury, that the procur-
ing

ing a seat in Parliament by bribing the electors, was frequently practised at that time ; at least it is certain, that courtiers and officers of the revenue found their account in getting into Parliament through these boroughs in the reign of Hen. VIII. although the act of Hen. V. which had forbidden the choice of any but knights actually resident in the shire, and citizens and burgeses in the cities and boroughs, and free of the same on the day of the date of the writ of summons to Parliament, was still in force.

From the reign of Elizabeth to the present time, the *wealth*, and, consequently, the *power* of the Commons have increased. The produce of the land of the West and East Indies, of Turkey, of Spain, Portugal, Africa, and, in short, of every country where the balance of trade is in our favour, has augmented the national property to so great a degree, that if the *land* of this kingdom, or the *internal* commercial interests were alone represented, there would be much more reason, than there is at present, to complain of the representation being *unequal* and *unjust*. I am

at the same time free to own, that the mode by which the inequality and injustice is in part prevented, is pregnant with great mischief, and is injurious to the fortune, *morals* and *religion*, and, consequently, to the *happiness* of a great part of the community, especially to those of the lower orders of the people; I mean the obtaining seats in the House of Commons by bribery; the first species was, perhaps, not pernicious: It was by the persons soliciting a seat, relinquishing their claim to wages during their attendance on Parliament. The next degree was also not injurious; sums of money given for the relief of the indigent inhabitants of cities and boroughs, donations to hospitals, endowment of alms-houses, and other public charities, perhaps might captivate the suffrages of many of the voters. Since that, the augmentation of wealth, and the change in the nature of property, have forced those who *possess* and wish to watch over the *preservation* of it, to adopt other measures to obtain seats among the representatives of the people, to which they ought to have a right in a different mode.

mode. I hope I have made it appear, by the account I have given of the manner in which the representatives of the Commons have been sent to Parliament, in this kingdom, that man, merely as man, has never been represented; but that *property*, or the *persons* who *possess* it, are those only who have been represented.

I believe we may safely conclude, that while the property and civil liberty of such persons, are duly attended to and secured, personal liberty stands a very slight risque of invasion.

Though I must acknowledge that a *proper* representation in the legislature of a kingdom, is the basis of constitutional liberty and *good* government, I hope I shall not be considered as adopting the assertions of Dr. Price, “that when the
 “representation is partial, the kingdom
 “possesses *liberty* only partially.” I believe I may defy any person to point out a time or place, wherever a representation was *perfect*, or explain to a reasonable man, what they mean by *liberty*, which is not productive of anarchy and confusion, except what I have before defined it
 to

to be,—“ the living under known and
 “ well executed laws ;” and though I see
 and lament that the present representation
 of the people of this kingdom is less ade-
 quate than may be wished, such is my
 dread of the misfortunes which have at-
 tended the neighbouring kingdom, in at-
 tempting to obtain that *pure and equal*
representation Dr. Price insinuates may be
 the means of procuring us a like “ *essen-*
 “ *tial blessing,*” that I am fearful, even of
 an attempt towards a reformation of that
 representation, which, with all its faults,
 has been found sufficient to render this
 country rich and flourishing, and the
 envy of all Europe.

I know that, among other objections,
 against the present mode of representation
 in this kingdom, the venality of the votes
 of the smaller freeholders, and of the
 lower freemen, and other voters of the
 boroughs, are considered as the strongest ;
 and, perhaps, it will be thought extraor-
 dinary that I should venture to assert,
 that unless a very different mode of repre-
 sentation than the present, should be
 adopted, it is happy for the country, that

these

these boroughs, and *this venality* should exist, and that without them a very *great* part of the *property* of the kingdom would remain unrepresented, and the *brighest ornaments* of the House of Commons, the persons of the most *shining abilities*, best acquainted with commercial subjects, would hardly have obtained seats in Parliament.

In confirmation of this observation, we will suppose one or other of these changes to take place; first, that instead of the cities and boroughs sending representatives to parliament, they should all be chosen by *freeholders* resident in the county, where they were entitled to vote, and that the same qualification was necessary to entitle the freeholder to vote, as established by the act of 8th Hen. VI. (*viz.* 40s. a year) which was then equal in value to about 4l. and provisions being then five times as cheap as at present, equal to 20l. per annum, of our present money; or, that 2dly, *every man* should have a right to vote for representatives, whether possessed of *property* or not.

And. Hist. of
Commerce, p.
253, 265.

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In the first instance, it is easy to foresee, that the *landed* interest of this country would only be protected to the prejudice of the *commercial* and *financial*.—To protect the first against the last, it has been judged proper to pass an act of parliament, which declares that mortgagees (although the legal title to the estate, after failure of paying the money borrowed, on the day stipulated in the deed of mortgage, is in the lender of the money) shall have no vote in right of such title, unless in actual possession of the mortgaged premises. In like manner, all the public creditors, who having invested their money in the funds, are virtually mortgagees of all the land in the kingdom, would have no right of suffrage. All these gentlemen, together with those whose property consists of *lands* in the *colonies*, which are as much *British territorial property*, as if they were situated in *Middlesex* or *Yorkshire*; and all those persons whose *property* consists of immense capitals, employed in *shipping* or in *commerce*, would be in the same situation.

It

It is impossible to foresee all the mischiefs that would attend the other mode of representation, contended for by the Declaration of Rights, either as Mr. *Chapelier* observes, the voters would not think it worth while to attend, and the elections would all be conducted by a few *intriguing* people; or the monied men would, as they do at present, *purchase* the suffrages of the voters, and the *landed interest* of this kingdom would remain unrepresented. At present, the number of boroughs, in the hands of the great landholders, secure to them a considerable share in the representation; their influence in the counties is a still further degree of weight;—while the venality of the boroughs, and the means of acquiring a seat, from the persons who may be said to possess some of them in property, give the *commercial* and *monied* interest a degree of importance, and the power of protecting their interest, which they *must* and *ought* to have. Thus, the very subject of complaint is so far beneficial, that those persons, who would otherwise be
unjustly

unjustly deprived of all right of representation, have an opportunity of introducing themselves, if present, or if absent, men of talents and knowledge into the House of Commons, to protect their interest, which would suffer, if any one of the three interests, landed, commercial, or financial, so should far prevail as to be paramount to *either* of the others; and would, most probably, make laws, which might bear hard upon that which was *inferior*, and, in the end, prove equally injurious to themselves; for it is happily so ordained by the Deity, that acts of injustice generally in the end prove injurious to those who commit them.

A just and equal representation of the persons who possess the *apparently distinct* and different species of property above mentioned, is certainly very much to be wished. I say *apparently distinct*, because in fact *all property* must be resolved into that of *land*, or the *produce* of it, and there is no doubt but it may be obtained by more desirable means than those at present employed. But such is
the

the danger of innovation, that in the present ferment of mens' minds, prudent people will allow that no change ought to be attempted ; certain it is, that the very vices of our present representation have operated as *correctives* to the errors of the *ancient mode*.

CHAP.

C H A P. VIII.

ON COLONIAL, COMMERCIAL, AND FINAN-
CIAL PROPERTY, AND THE NECESSITY
OF THE POSSESSORS OF SUCH PROPERTY
BEING REPRESENTED.

I F I have proved in the foregoing chapters, that *property* is the foundation of *dominion*, it must be so of *representation*, and every reasonable man must agree that all the inhabitants of this country, possessed of great *wealth*, ought to be allowed a share in the *representation* and *disposition* of it.—Whether that wealth originates from the soil of countries in *Asia*, *Africa*, or *America*, or in any part of *Europe*, it can make no difference ; it has the same effect in *alimenting the industry*, and increasing the *prosperity* of the nation. I know it has of late been the fashion to speak of the *colonies* of this kingdom with
con-

contempt, a contempt which I believe, however, is only pretended; the illiberal treatment which gentlemen whose industry and whose efforts have been extremely conducive to raise this kingdom to the degree of splendour it at present enjoys, will be found, upon close examination, to spring from that *envy* which is inseparable from *narrow* minds.

I shall not waste my time, or that of my readers in replying to the specious arguments of those who pretend the colonies are useless, or burthenfome to the nation. When an ancient sophist was arguing to prove the *impossibility* of motion; the philosopher who heard him, made no other reply than by walking up and down the room. In like manner, I conceive the only reply to be made to gentlemen who *talk* with contempt of the *West India* colonies, is to compare the situation of the kingdom before its possession of them, and at present.

I must premise that I consider every British factory as a colony, whether established in Spain, Portugal, Turkey, Russia, or Indostan. In short, the product

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of the soil of *another country*, is, as it were, *naturalized* here, by being exchanged for the produce and manufactures of these kingdoms; to prepare which, a number of hands are necessary; population increases in proportion as labourers can find employment; the value of land increases with the number of its useful inhabitants.

It surely is not necessary to use many arguments to prove, that the value of an acre of land depends upon the quantity and quality of its produce, and the demand there is for it; and, therefore, it may not be improper to shew, how that value and that demand has increased.

In the year 966, the value of an *acre* of land was estimated at one *shilling*; a hide was worth 100 *shillings*. Without inquiring very particularly of what number of acres the precise quantity of a *hide of land* consisted, it will be sufficient for our purpose to take it at the common estimation of 120, which we may reasonably suppose to be tolerably exact; for if a *single acre* was worth a *shilling*, a number of acres taken together, would
probably

probably be worth something less. If this account of the value of land is to be depended upon, which is taken from the learned Bishop Fleetwood's book, so often mentioned, it will lead us to another very important observation, *viz.* the population of the kingdom at that period.

A hide of land was said to be such a quantity as was sufficient for the support of a family. The kingdom of England is said to contain 49,450 square miles; if, therefore, there are 640 acres in a square mile, the number of acres will be 31,648,000, which, divided by 120, will give 263,733 $\frac{1}{2}$ families, and allowing six persons to a *family*, which is more than a due proportion, the whole number of inhabitants at that time in this kingdom, will be only 1,582,400, supposing, which we know is not the *fact*, all the land of the kingdom to have been in cultivation, or capable of it.

Very little alteration in the value of land took place till after the Norman conquest, but after that period, notwithstanding the turbulence of the times could

not be very favourable to *commerce*, yet the possessions *William* had in *France*, (which may be considered as a kind of colony) did certainly advance it.

Jews were inhabitants of England soon after the establishment of King William ; and the *charter* he granted the city of London, the incorporation of *cities* and *burghs*, by *William Rufus*, are all proofs of an extended commerce ; and the settlement of *Strongbow* and his followers in *Ireland*, which, in fact, was the establishment of a colony there, as it increased *commerce* and *national industry*, so we find it augmented the value of lands.

The promulgation of the laws of *Ole-ron*, (which island must also be considered in the light of a colony) shew how much such *foreign possessions* were beneficial to the *trade* of the kingdom ; and it is not to be wondered at, that in consequence, land should increase in value, so as that 30 acres of meadow land in *Cambridgeshire* in 1283, should be valued at 4d. a year *per acre* in the books of the Exchequer. It must, however, be supposed such land was very good, as we learn from the *Chronicon*

nicon pretiosum, that in 1327, a *capital mesuage*, with 70 acres of *arable land*, at *Tunbridge*, in *Kent*, was worth no more than 1l. 15s. *per ann.* and *meadow land* was still at the same rate of 4d. *per acre*.

Land, however, for upwards of 150 years after the last period, was worth no more than *ten years* purchase, as the reward offered for the apprehension of the *Duke of Buckingham*, by Richard III. was 1000l. or 100 *per ann.* in land; nor does it appear that the rents were very considerably augmented. In the reigns of Hen. VII. and VIII. to say nothing of the *provinces* which England held in France, the discoveries of *America* and *Newfoundland*, the trade to the *Brasils*; which was a species of *colonization*, increased the *commerce* of the nation, so much to the benefit of the landholder, that it appears by the 34 and 35 Hen. VIII. c. 24. land in *Cambridgeshire*, *meadow and pasture*, equal *quantities* of each, let at 1s. an acre; whereas in 1327, when *meadow land* let at 4d. *pasture* only let at 1d. *per acre*. As *colonization* and *commerce* increased, in the subsequent reigns of Elizabeth, James

and Charles I. the interest of money was lessened from 10 to 8 *per cent.* The *rent* of land was not only increased, but it sold for a greater number of years purchase at such advanced rent.

Sir *Thomas Culpepper*, who was one of the most zealous promoters of the *colony of Virginia*, and obtained a grant of all that tract of land which lay between the rivers *Rhappahanock* and *Potowmac*, since known by the description of the *Northern Neck*, was the member of Parliament who was the great promoter of the act reducing the rate of interest, and in contradiction to one of his opponents, who desired it might be remembered, that he had foretold the inconveniencies which would ensue, “ de-
 “ fired it might be remembered, that he
 “ had prophesied many happy effects
 “ from it. 1st, To the king, in the im-
 “ provement of his customs. 2dly, To
 “ the landlord, in the advance of his rent,
 “ and the price of his inheritance. 3dly,
 “ To the merchant, in the quickness of
 “ his trade, and benefit of his returns.
 “ 4th, To the borrower, in the ease of
 “ his condition. Hereupon Sir *Josiah*
 Child,

And. Hist. of
Commerce.

“ Child, in his Discourse on Trade, first
 “ published in 1670, remarks, that in
 “ 1635, which was but ten years after
 “ making of this law, that there were more
 “ merchants to be found on the Exchange
 “ worth each 1000l. than were before
 “ 1600 to be found worth 100l. each.
 “ That before and about the time of this
 “ reduction of interest, the current price
 “ of lands was 12 years purchase, which
 “ soon after rose considerably higher.
 “ That the lowering of interest, enables
 “ the landlord to improve his estate, and
 “ thereby raise his rent; that it enables
 “ merchants to increase foreign trade,
 “ whereby home manufactures and arti-
 “ ficers will be increased, as also our
 “ stock of useful people, and the *poor*
 “ will be employed.”*

N 4

From

* It, perhaps, will not be a bad way to judge of the popu-
 lation of a country, to consider how far the value of land is
 increased within a given period. I am ignorant what
 number of families are now maintained on 120 acres of land
 in England, but from a very ingenious and accurate account of
 the population of France, published by Monsieur le Chevalier
 de

From the time of Henry VIII. the value of *foreign commerce*, and the advantage of the establishment of *factories* and *colonies* became better understood. *Settlements* and *factories* were established in the *East Indies*, *Turkey*, *Persia*, *Africa*, and the continent of *America*, as well as in *Newfoundland*, and in the *West Indies*, to the great increase of population, and the value of land.

And. Hist. of
Commerce.

The interest of money consequently decreased, and was by 12 Cha. II. established at 6 per cent. The advantages arising from thence are taken notice of by Sir Josiah Child, in the same pamphlet above quoted, who remarks “ that in 1688, “ more men were to be found on the exchange, at that time, worth 10,000 l. “ than were worth 1,000 l. twenty years “ before; and among other marks of opulence, he observes, that 100 coaches “ were

de Pommelles, Lieut. Col. of the 5th regiment of the *Etat Major*, in France, in the year 1789, the population of the 14 Southern Generalities, which are the parts by far the least populous of that kingdom, and certainly not more so than England in general, the persons maintained on the same number of acres will be about eight or nine times as many as an hide of land was supposed to be capable of supporting.

“ were kept then, for one formerly ; that
 “ lands in the country then yielded 20
 “ years purchase, which would not be-
 “ fore have yielded above 8 or 10 at most ;
 “ that farms then to be sold would yield
 “ three, and in some cases six times as
 “ much as they would have done 50 years
 “ before.”—“ Ireland also has been vast-
 “ ly improved in its lands since great part
 “ of it has been possessed by the industri-
 “ ous English, who were soldiers in the
 “ late army.” It is true, Sir Josiah at-
 tributes these advantages solely to the de-
 crease of the rate of interest, but Mr.
 Anderson, with very great justice, re-
 marks, that *low interest* for money in any
 country, is at least, as much the *effect* as
 the *cause* of wealth and commerce. An
 increase of *commerce* brings an increase of
wealth, which is ever attended with an *in-*
crease of money, and such increase of money
 will naturally and necessarily produce a
 low rate of interest, as plenty of every
 thing whatever, necessarily causes its
 cheapness. A wise nation may, indeed,
 facilitate the reduction of their *legal* inte-
 rest, by good and prudent preparatory re-
 gulations,

gulations, and thereby contribute to the increase of *commerce*, and the encouragement of *agriculture*—but such reduction of the legal interest is to be done with great circumspection, and ever with a due regard to the current, natural interest of money at any such proposed time.

There cannot be any doubt, however, that the very great increased *population and riches* of this country, are owing to the *increase of commerce*, and, I believe, very few will dispute, that such *increase* of commerce is owing to our *colonial establishments*. In proof of it, I beg to observe, that before the late revolt of the colonies in North America, interest of money was at 3 per cent. the lands of this country were at 33 and 35 years purchase: when we lost many of our colonies, particularly our *sugar colonies*, and found a difficulty in carrying on our commerce, with those that remained; interest of money increased to 5 per cent. and very little was to be had at that rate, and the value of lands fell to less than 20 years purchase. These colonies have been again restored; and although the greater part of those we possessed

fessed in North America are lost, *as*
such, much of the benefit resulting
 from them formerly, still remains, or
 rather is returned to us. The reason of
 which, however, is plain. Our ancient
 habits, the connexion and fraternity
 which heretofore existed, is renewed be-
 tween individuals; the superiority of the
 capitals of our merchants, their punctua-
 lity in business, as well as the generosity
 with which they advance money to those
 who are worthy of credit, together with
 the *stability* of our commercial laws, al-
 together render Great Britain and Ireland
 the best markets, to which they can bring
 the *commodities* of that *country*; but should
 a change happen in *any* of these particu-
 lars, or even should the people of North
 America find out a better market for their
commodities than these kingdoms, we
 should soon be taught how much our *com-*
merce would suffer from no longer possess-
 ing, *exclusively*, that of so many millions
 of people.

Those who argue from the continuation
 of our commerce with North America
 against the *necessity* of our preserving the
sugar

sugar colonies, ought to reflect, that there is not the least resemblance between the nature of our intercourse. There was always a growing rivalry between *Britain* and *North America*. Their productions, particularly of the North part of the latter, were nearly similar; although we have lost a very considerable part of that country, we have had advantages in the increase of our *navigation*, which, in some degree, compensates for it. Notwithstanding the *imports* from that country have lessened to the quantity of 50,000 tons of merchandize *per ann.* yet the increase of the tonnage of *British* vessels has been more than equivalent; and, perhaps, had not the separation taken place between this country and North America, the permission and encouragement given to the Americans to *build* and *navigate ships* with all the *advantages* of those built in *Great Britain*, would, in the end, have been productive of great mischief to the *national* navigation and marine, which could not be foreseen. But very different, indeed, is the situation of *West India* and *African* colonies and settlements; none of the *productions*

ductions of those countries are similar to those of these kingdoms. No *rivalry* can be apprehended in *manufactures* and *shipping*. All the imports of those countries, if not absolutely necessary for the *support* and *sustenance* of the inhabitants of this, are so, to their *convenience*, to their *happiness*, and to their *health*. The East Indies we may very probably be expelled from, and that, too, within a few years. The *African trade* is scarcely worth attention, but as connected with the *West India colonies*, which are *peculiarly* intitled to the *protection* and *attention* of this country. Their insular situation renders them incapable of making themselves *independent* without foreign assistance : but should *future oppression* and *injustice* force them to seek the *protection* of some other power ; their commodities, like the *rice* and *tobacco* of *North America*, which are now carried in *American vessels* to *foreign markets*, and are the cause of the *deficiency* above-mentioned in the *imports* of that country to this, would, in like manner, be carried in *foreign vessels* to such *markets* as would want them, to the *destruction* of the
British

British navigation. The trade of those islands employing no less than from 900 to 1500 ships annually, whose tonnage amounts altogether to 280,000 tons, on board which no less than from 15 to 18,000 seamen are employed, including those which bring the bulky articles of plank, lumber, &c. from America, and those which are employed in the fisheries of Newfoundland and the Coast, as also in the trade to Africa and the East Indies.

The foregoing observations will, I hope, tend, in some measure, to satisfy the *land-
ed gentlemen* of the kingdom, that the *colonies* of this country, and particularly the *sugar colonies*, ought not to be looked upon by them with eyes of *envy or jealousy*; and, if I am right in my position, “ that
“ property, or the persons who possess
“ property, are intitled to a share of re-
“ presentation in the Assembly to which
“ the power of disposing that property is
“ delegated,” the proprietors of the commercial and colonial property of *this na-
tion*, as arising from the *land* of *other coun-
tries*, in whatever quarter of the globe
such lands are situated, ought to be *repre-
sented,*

sented, as much as the land, or the persons who may be in possession of it, in *Middlesex* or *Yorkshire*.

That the present mode of obtaining such representation, is improper and inadequate, every one must allow; but at a time when the *love of novelty*, and a *mad* desire of *subverting* all *old establishments*, seems to be prevalent; it is almost criminal to attempt to *change* any thing, which may be suffered to *subsist*, without the most imminent danger to the common weal; and the various *just* and *proper changes* which have been made in the representation of the people heretofore, ought to be a *sufficient security* to us, that further alterations will be made, when they may be necessary.

The idea of having *every individual* of a community *represented*, is proved by the miscarriage of it in France, to be *impracticable*. Notwithstanding the declaration that every citizen is intitled to the right of suffrage, the men who laid down that declaration as the foundation of their government, have found it necessary to deprive of this right, all those who do
not

not come within the description of what they call *active citizens*, at once disfranchising all women, and all men under 25 years of age, and also all persons who do not pay a certain tax, all hired servants, all persons who are not enrolled as national guards, and all who shall be under accusation, which, together, must form 19 parts in 20 of all the inhabitants of the kingdom.

The ancient mode of representation under the *feudal system*, is no longer practicable; nor if it was so, would it be just. That which from necessity has since prevailed in this kingdom, is considered as inadequate, and is certainly faulty, and may justify many complaints against it, yet it is with the utmost diffidence I hint at a change in the mode of *choosing representatives*, whenever the *wisdom of Parliament* shall judge such change necessary or expedient.

In a former part of this treatise, I have shewn that the first government in the world was certainly *parental*; when families multiplied, still a share of power was

was lodged in each head of a family, and the great and wise *King Alfred*, for the better government of the kingdom, adopted and revived the ancient German *fri-bourg* or *decenna*, which had before been introduced by the *Saxon princes* into this country.

By this law, every *handborough* or head of a family, was to give security to the *headborough*, *tything-man*, or *decenner*, for the peaceful and good behaviour of his family, his children, dependants, and servants; all that were in his *manupast*, that is, fed by the hand of the *handborough*, or *head of a family*. Bracton says, “ he that
 “ is allowed victuals, clothes, and other
 “ necessities, is said to be of his *manupast*
 “ that provides for him these conveni-
 “ encies of life.”

Bracton, Lib.
 III. Ch. 10.

My reverence for *antiquity* makes me hope, in case any change in the *representation of this kingdom*, shall be hereafter judged necessary by the *people*; that is, by the *Lords* and *Commons* assembled in *Parliament*, the only legal mode by which the will of the *people* can be manifested; that a reference would be had as much as possible

possible to *first principles*, remembering always, that it is not only the *landed interest* of this country, (every blade of grass growing, on which was said, by the late Lord Chatham, to be represented) but that the *land of every country*, the produce of which form a share of the riches which constitute the present *national wealth*, is equally intitled to *such representation*. Till that period shall arrive, it is the duty, and ought to be the *study*, and the *pride* of every good subject, to support the *laws* and *government* of the kingdom as they exist at present; and contribute, all in his power, to prevent the *abuse* of that *liberty*, which we all enjoy under the present *happy constitution*, which, by judicious alterations and improvements, has been gradually brought to its present *state of perfection*.

If circumstances shall make any changes *necessary* or *expedient*, no doubt but they will be made; but it is the *great council of the nation*, the *witenagemote*, the *assembly of the wise men*, who alone have a right to make them. In them alone legally

gally resides the *power of the people*: in their wisdom we may confide, they will not suffer themselves to be deluded by the pretended set of *philosophic innovators*, who seem to consider government as the fanatics of the last century did religion :

“ ————— as if intended,

“ For nothing else but to be mended.”

The inhabitants of our *sister kingdom*, as well as ourselves, may take warning from the *unhappy situation* of *France*;—anarchy has there taken place of government, and every species of property is daily violated. The national credit is destroyed,—her colonies are deluged with blood,—her commerce is nearly annihilated,—her nobility and gentry have been proscribed, and driven from their estates:—Throughout the whole of the empire, law, liberty and religion are trampled under foot; and civil war and famine seem to be, at this moment, ready to augment the horrid catalogue of those misfortunes, which the mad desire of hasty and violent reformation has brought on the inhabitants.

C H A P. IX.

OBSERVATIONS ON MR. PAINE'S PUBLICATIONS ON THE RIGHTS OF MAN.

THE foregoing sheets were ready for the press, and I had no intention of adding to them, when my bookseller sent me another pamphlet, by Mr. *T. Paine*, which he calls the *Rights of Man, Part the Second*.

As this gentleman gives us to understand, he should “consider his conviction, by a jury of twelve men, as a matter of triumph,” and declares he would rather be the author of the work condemned, than the judge or one of the jury by whom it should be condemned :

As

As he arrogantly thinks himself of such importance, that the convention of a whole nation *fairly elected*, is the only competent tribunal to whose judgment he is bound to submit; he will not, I suppose, pay much regard to the opinion of so obscure an individual as the author of the present pamphlet.

Preface to
the Rights of
Man, p. 14.

Preface to
the Rights of
Man, p. 11.

It may be prudent in him to suspect, notwithstanding he pays so little regard to the opinion of professional men, that a person who avows such a correspondence with the rebel enemies of the country he was born in, as *professional men* in general denominate *treason*, may be subject to the punishment of that crime.

I am by no means competent to decide how far the acknowledgment of the independence of the *Americans* by the legislature of Great Britain can be considered as *pardoning* the offences of a *natural born* subject of this kingdom, returning to it from *that* where *those* offences were committed, and where the government of this kingdom has no longer any *jurisdiction*:

diction. The punishment of those bold and wicked men who revile and insult the governors and government of this country, must remain with those whose duty it is to put the laws in execution; and I shall animadvert no farther on Mr. Paine's last publication, than particularly regards the subject I have had under my consideration in the foregoing pages.

I have, in the former part of this work, traced the *origin of government*, as Mr. Paine, in the first of his publications, advises, "To the time when man came
" from the hand of his Creator." But he has now thought proper to quit
" *this resting place*," where we are told,
" our reason finds a home. He now de-
" cries all governments from that time
" to the present, as having commenced
" by a violation of every principle,
" sacred and moral. The governments
" of France and America, are those only
" whose origin are worthy to be remem-
" bered; the *best of the old systems of*
" *government* are represented as an attain-
" upon principle, and an outrage upon
" society."

Rights of
Man, p. 47.

Second Part,
p. 15.

Ibid, p. 23.

The

The case and circumstances of America, present themselves as in the beginning of a world. We are no longer to revert back to antiquity for *information*, as Mr. Paine recommended to us before, but rest contented with that which Mr. Paine now thinks proper to furnish us with—

Diruit, ædificat, mutat quadrata rotundis.

At length we are told that the *representative system* is the only perfect one:

“ It takes society and civilization for its
 “ *basis*. Nature, reason, and experience,
 “ for its *guide*.”

Second Part,
 P. 25.

I can but admire the modesty of Mr. Paine, who supposes mankind, for so many thousand years, were ignorant of what *nature*, *reason* and *experience* are competent to guide us to at present. I have, however, shewn that the *feudal government* was founded in representation; and, I trust, that the closer the nature of that government is examined, the more *perfect* will that *representation* be found. The internal government of the

North American Colonies, before their separation from this country, by whom they had been nurtured till they were enabled to *revolt*, from those who had protected and cherished them, was entirely founded on representation. But it seems there was wanting *then*, and there is *still* wanting in this country, a *constitution*.

I did not, in the former part of this treatise, think it necessary to consider seriously Mr. Paine's definition of what is meant by that word.

Rights of
Man, p. 5.

Part Second,
p. 41.

Mr. Paine tells us, "It is *a thing* antecedent to a government, and a government is only the creature of a *constitution*. It is not the *act* of its government, but of the *people* constituting a government. It is the body of elements to which you can refer and quote article by article," &c. and we are referred "to the *commencement* of the American constitution, to shew the difference between constitutions and governments."

As the intent of Mr. Paine in making this distinction between a constitution and
a go-

a government, as well as in every other part of his *seditions* writings, is to render the people of this country dissatisfied with their situation, and the present establishment in church and state; it may be useful to inquire how far his observations are founded in truth and justice. Not to dwell on Mr. Paine's inconsistency in calling the governments which have *thrust themselves* between the time of the creation of man, and the present time, *upstart* governments, and his present idea of the representative being *new*, without being subject to the *same objection*; I shall inquire if the *present* governments of America and France can be said to be founded on constitutional, rather than those of other nations, and that of Great Britain in particular.

Rights of
Man, p. 49.

Yielding then to Mr. Paine that tribute of thanks which is due to a person who, for the benefit of mankind, has made so profound a discovery, that a *thing* which is called by a *name*, is really some *thing*, or a *fact*, and that a *thing* has a real existence, which, however, may *not* exist, for such is surely Mr. Paine's definition
of

of a *constitution*; he tells us, a constitution is not a *thing* in *name only*, but in *fact*. He then proceeds to tell us when the *thing began* to exist, and from whom.

Let us try him by his own rule. The rights of man had its *divine* origin from the time of the *creation of man*. I suppose Mr. Paine will allow, that *government* originated at the *same time*; for when God made Adam, according to the divine or historical authority, Mr. Paine refers us to, he gave him “dominion over the fish
“ of the sea, and over the fowl of the air,
“ and over every *living thing* that moveth
“ upon the earth.” Will Mr. Paine be pleased to inform us, what was the constitution *antecedent* to this *dominion*, this *government* thus committed to Adam? I hope this will prove, from an authority acknowledged by Mr. Paine himself, that government may be *antecedent* to a constitution; if so, it will not be difficult to prove, that a constitution may be *posterior* to government. Mr. Paine tells us, it is not sufficient to *adopt* a word, we must *fix* also a *standard signification* to it. I own I conceive it necessary in fixing the signification

fication of a word, to consider what meaning has been annexed to it, by those who have formerly made use of it. In examining what ideas have heretofore been annexed to the word *constitution*, I am not able to discover it ever has been used as signifying, “ The act of the people constituting a government.” That such is the meaning of the word is among the *modern* discoveries by which the world is to be made perfectly *happy*. I have been taught to consider it as a word derived from the Latin word *constituere*, to appoint, to order, to decree. Thus we say, the Ecclesiastical canons, or *constitutions*, or the general constitutions made not by the people, but by the bishops, or other governors of the church. The constitutions of Clarendon were, heretofore, ranked among the laws of this kingdom. The Imperial *constitutions* were a collection of laws by which the empire of Germany is now governed; they had their *origin* from *Charlemagne*, who was both an *hereditary* and *absolute* prince; and what now remain of them are called *the capitularies*.

The

The constitutions of Poland have been made by the *noblesse*, not by the *people*. The *constitutions* of Catalonia are a collection of the laws and usages of that province, and were the laws *granted* or established either by the *princes* of the country, or by the *kings* of Spain; they were collected in 1603, and printed at *Barcelona*, under the title of “ Constitutiones festes par la ma-
 “ gestrat del Rey don Phelep Segon, rey
 “ de Castilla, de Arrago, et in le primera
 “ Corte celebrada als Catalans en la cinta
 “ de Barcelona in lo Monastit de S.
 “ Francesch en lo any 1599.”

From these authorities, I think I am founded in saying, that the word *constitution* never had the meaning annexed to it by Mr. Paine, in any part of the world, nor has a *constitution* ever been framed *anterior* to government by any people upon earth. A *constitution* is evidently nothing more than a *collection* of laws by which government is to be carried on, which are daily subject to *repeal*, to *alteration*, to *additions* or *improvements*, as the person or persons in whose hands the government of any country is committed shall judge proper.

proper. If I am right in my definition of the word *constitution*, the difficulty of producing the constitution of this country will not be great. Mr. Paine has only to consult the *Statute Books*, wherein he will find the *present constitution* of this kingdom. Having thus given a definition of the word *constitution*, which is certainly something different from that given by Mr. Paine, I shall proceed to examine, *wherefore* the established government in America, and that *which is not yet established in France*, is preferably founded on a *constitution* to that of Great Britain, and upon what ground Mr. Paine pretends to have discovered that we have no *constitution* at all.

With respect to the American government we are told, that “ we are brought
 “ at once to the point of seeing govern-
 “ ment begin, as if we had lived in the
 “ beginning of time,” according to our
 author, “ for upwards of two years from
 “ the commencement of the American
 “ war, and for a longer period, in se-
 “ veral of the American states there were
 “ no established *forms* of government.
 “ The

Rights of
Man, p. 9.

“ The old governments had been *abolish-*
“ *ed*, and the country was too much oc-
“ cupied in defence, to employ its atten-
“ tion in *establisbing new governments*, yet
“ during this interval, *order and harmony*
“ were preserved as *inviolable*, as in any
“ country in Europe.”

We all remember the *order and harmony* that reigned in America at the time alluded to. If any man dared to express *contrary sentiments* to those of the *party prevailing*, he was tarred and feathered, if he was not massacred or banished.

But we will examine the fact as stated by Mr. Paine, and suppose all to have been *order and harmony*, and that at the peace they were without government, and in a situation to form a constitution.

The proceedings of the *state* of Philadelphia, is the model given us of this perfect system of representative government.

Part First,
p. 56.

“ It is not sufficient to adopt a word, we
“ must fix also a standard signification to
“ it.” As Mr. Paine has omitted to fix a standard signification to the word *state*, I must take it in the common acceptation.

My

My dictionary tells me, a *state* is a government, something *constituted*, “ This Part Second,
P. 41. state, too, Mr. Paine tells us, was divided into 12 counties, each of these counties had *elected* a committee.” They recommend the several counties to elect six representatives for each county, to meet in *convention* at Philadelphia, with *powers* to form a *constitution*, and propose it for public consideration.

This, then, is the *instance* given us by Mr. Paine, of the beginning of a “ regular process, by which a government P. 43. “ was to issue *out of a constitution*, formed “ by people in their *original* character.” *Expede Herculem.*

May we be permitted to approach so near this prototype of all that can be excellent in the *new* representative system, as to look into it, without suffering for such profane curiosity ?

An ordinary man, from Mr. Paine’s description, would have supposed, that Pennsylvania had been a *state* or government, before the formation of *this constitution*: in common parlance, the manner in which it existed would have been considered

sidered *as* its constitution. It appears, that it had been formed into twelve counties, that each of these counties elected a committee, and the injunctions, requisitions, or orders of these committees were obeyed, or submitted to. Does not this shew there was a government *antecedent* at least to this *new constitution*? Is there any thing very new in all this? Mr. Paine tells us, these original committees were chosen by the people, but he does not tell us who were *these people*, what were the *qualifications* of the *voters* whose votes were received, whose votes rejected, and by what authority. The word *people* is a general term, the *potior pars* always calls itself by that name; and we know particularly in America, that if any *vile tories* called themselves by that appellation, they were *tarred, feathered, whipped*, and, if not *assassinated* or *imprisoned*, were driven out of the country.

But the six representatives, chosen by the twelve counties, meet in *convention*. For a man who does not allow the use of a word without its precise signification being fixed, Mr. Paine seems rather

ther to have forgot himself, for *county* is a word of as uncertain signification as that of *duke* or *count*. “ If, through all
 “ the vocabulary of Adam, there is not Part I. p. 71.
 “ such an animal as a *duke* or a *count*,” it is probable you will not find the word *county* therein. If, however, Mr. Paine will produce it, I will pledge myself to find the others in the same page. But however these representatives, chosen by we know not *whom*, are now met in *convention*; I must again endeavour, conso-
 nant to Mr. Paine’s wishes, to fix the *meaning* of the words we make use of. A *convention*, if I am not mistaken, is a meeting of a number of people together. These delegates, therefore, *meet* in a *meeting*, “ with powers to form a *consti-*
 “ *tution*.” As Mr. Paine gives us no account of the nature of these *powers*, whether they were given in *writing*, as the Cahiers of the Balliages were given to their deputies in France; or whether these representatives were *equally faithful and obedient* to the orders of their constituents or not, I can make no obser-
 P vation

vation on that part of their conduct.— All I can learn from the whole is, that they met, made many fundamental laws for the government of the state, and then returned home.

I shall beg leave to make a few observations upon these *stupendous efforts* of the most enlightened men in the universe; perhaps we may in the end find there is nothing in the whole but what has been done by other people before, and that they have only followed the *example* of the mother country, as far as they possibly could do in their situation.

The conduct of the several *states* in forming their particular governments, or what Mr. Paine names their *federal constitution* being similar to the conduct of the state of Pennsylvania, I conceive the observations on the *one* will apply to the *whole*.

The meeting of the six representatives chosen by each of the twelve Pennsylvania counties, which *constituted* that *state* or *government* antecedent to their having a *constitution*, we find was called a *convention*.

tion. “ Public conventions,” says Dean Swift, “ are liable to all the infirmities, “ follies, and vices of *private men*.” How far the laws made, at this meeting, or at the meeting of the deputies of the several other states, (which they have pleased to call a *congress* rather than a *convention*, though I am ignorant enough to suppose both the words to be synonymous) are better or worse, than those of the country, whose example they have followed, time will shew; if better, their government will be better; if worse, their government will be worse: but that both countries will have had a constitution cannot be denied; and I will try if I cannot shew how the constitution of Great Britain is just as much a *constitution* as that of the United States.

‘ A meeting of sundry persons, *chosen by*
 ‘ *the people* for the purpose of making laws
 ‘ for the government of all the inhabi-
 ‘ tants (of which two were chosen by the
 ‘ freeholders of each county, and sundry
 ‘ others by people called citizens, freemen,
 ‘ or inhabitants, certain other places called

‘ *cities and burghs*) was held at Westmin-
 ‘ ster, on the day of 1790.—
 ‘ This *meeting* was called not a *congress*,
 ‘ nor a *convention*, but a *parliament*. These
 ‘ representatives of the people, in conjunc-
 ‘ tion with certain persons, (who, in con-
 ‘ sequence of former laws, which were then
 ‘ in existence, were invested with autho-
 ‘ rity for that purpose) *changed* or *abroga-*
 ‘ *ted* such as they disapproved of, and pro-
 ‘ posed fundry *new ones*, which, with the
 ‘ king’s assent, had the same force with the
 ‘ others. All these laws together, were
 ‘ what the people were bound by, and were
 ‘ constituted for the government of the
 ‘ kingdom. Such laws together made up
 ‘ what we may, with propriety, call the
 ‘ constitution, nor could any body be
 ‘ guilty of a breach of these laws, so con-
 ‘ stituted, without being liable to punish-
 ‘ ment, nor could the king or any one.’

Rights of
 Man, P. II.
 P. 43.

“ But as it would have been unwise
 “ to preclude the benefit of experience,
 “ and in order also to prevent the accu-
 “ mulation of errors, if any should be
 “ found, and to preserve an unison of
 “ govern-

“ government with the circumstances of
 “ the state at all times, the *constitution*
 “ provided, that at the expiration of every
 “ seven years, a *like convention* or meeting,
 “ (called a parliament) should be elect-
 “ ed, for the *express purpose* of making
 “ *alterations, additions, or abolitions* of the
 “ former laws which were the constitu-
 “ tion of the kingdom, if found neces-
 “ sary.”

Here we see the same “ *regular pro-*
 “ *cess*” Mr. Paine speaks of, which he
 calls “ a government issuing out of a
 “ constitution.” In *America* they con-
 firmed, rather than made those general
 laws, which they modelled from what
 they had before severally borrowed from
this country, with such alterations as their
 local circumstances, or the judgment of
 their parliament, (whether called by the
 name of committee, convention, or con-
 gress, is totally immaterial) thought pro-
 per. They adopted the same *Courts of*
Judicature, the *Trial by Juries*, the *Liberty*
of the Press, the *Habeas Corpus*, and many
 other of the most essential parts of the
constitution of this kingdom.

Rights of
 Man, P. II.
 p. 43.

Let

Let any one judge, after this, of the propriety of Mr. Paine's assertions. That this kingdom is without a constitution, or of the *originality* of the government of America, whose constitution is scarcely any thing more than a copy of that which Mr. Paine pretends has no existence. I am almost ashamed of employing so much time in exposing the absurdity of Mr. Paine's ideas upon this subject. That the constitution of Great Britain, and that of America, issued from a similar source, I do not conceive will remain doubtful; whether one is better than the other time will discover; and to that great arbiter of human events, I leave it.

I will next examine the other objects of Mr. Paine's applause:—The present government, or rather the *origin*, as Mr. Paine calls it, of the present government of France. I suppose he means the constitution framed by the late meeting, congress, convention, or assembly, calling itself the *National Assembly*.

Every one acquainted with the histories of Europe, and particularly of the history

history of this country and of France, must agree, that the government of both countries were nearly alike. Till the latter end of the thirteenth century the king and the nobles were the great *propri- etors* of the lands of both kingdoms; they met in council in each kingdom, and made laws for the good government of the inhabitants.

It was not till the time of Louis le Gros, in France, that the *Serfs* began to be emancipated; nor till the time of Philip le Bel, that the representative assembly of the nation consisted of any members but the parliament, which was composed of the great *vassals* of the crown, and the *magistrates*, who were chosen from among the *nobility*. In England, the first regular summons of the Commons to Parliament, was in the year 1295. In France, the Commons, called the *Tiers Etat*, was not called to Parliament till the year 1301. The Commons had not before any considerable property, and, therefore, it was not until that year, they were first summoned under

der the name of the *Etats Généraux*.— The laws then made, from that time, were the constitutional laws of the kingdom, as before the former laws were equally so; and whenever there have been any *legal* changes made in the constitution of France since that period, they have been made by the same authority. These *Etats Généraux* have not been regularly assembled as the *Estates General* or Parliament of this kingdom have been; but their authority has been invoked, upon particular occasions, and the laws made by them were always considered as the only constitutional ones of the kingdom.

One of these extraordinary occasions lately presented itself, and in 1788, the assembly of the *Etats Généraux* was summoned by the king to meet on the 27th of April, 1789.

Can there be any doubt whether the persons so met, were not legally called together, agreeable to the constitutional laws of the kingdom?

In conformity to these laws, the three estates of each bailliage or senechausée
of

of all the provinces of the kingdom, were directed *by the king's writs* to be elected *deputies*, who should be furnished with sufficient *instructions* and powers, to propose, advise and consent to whatever might relate to the *necessities* of the state, the reformation of abuses, the establishment of a fixed and permanent order in all the parts of administration, the general prosperity of the kingdom, and the advantage of the whole people.

Thus it appears, the assembly of the *states* of the kingdom were convoked *by the king* agreeable to the constitution of the kingdom. The persons who were chosen by those who had a constitutional authority to elect them, received *instructions* from those whom they represented, by which they were *bound* to conduct themselves, and they solemnly *swore* to be guided by such instructions.

These *representatives*, very soon after their assembling together, acted diametrically opposite to those directions they had received from their constituents, which

Q

which they ought to have been bound by, and which they had sworn *to obey*.

Rights of
Man, p. 25.

Is *this* the government which meets with Mr. Paine's approbation? Is this
 “ the representative system which takes
 “ society and civilization for its basis;
 “ nature, reason and experience for its
 “ guide?” Is this the government
 which deserves so much applause, which
 is one of the two “ whose origin will
 “ ever be remembered, because it is ho-
 “ nourable to record it?”

Ibid, p. 15.

That it will be remembered I doubt not; not because it has society and civilization for its basis,—not because it has nature, reason and experience for its guide,—but, because there never before has been any attempt to frame a government on principles so destructive of all society and civilization, so contradictory to the dictates of experience, and so directly in opposition to the instructions given to the assembly which has framed it, by their constituents, of which we may truly say with Mr. Burke—

Ref. p. 244.

“ We can never consider *that* assembly
 “ as any thing else than a voluntary as-
 “ sociation

“ fociation of men, who availed them-
 “ selves of circumstances to feize upon
 “ the power of the ftate. They had not
 “ the sanction and authority of the cha-
 “ racter under which they firft met.—
 “ They affumed another of a very dif-
 “ ferent nature, and completely altered
 “ and inverted all the relations in which
 “ they originally ftood. They did not
 “ hold the authority they exercifed, un-
 “ der any constitutional law of the ftate.
 “ They have departed from the instruc-
 “ tions of the people, by whom they
 “ were fent, which were the fole fource
 “ of their authority.”

Reflect. p.
 243, 244.

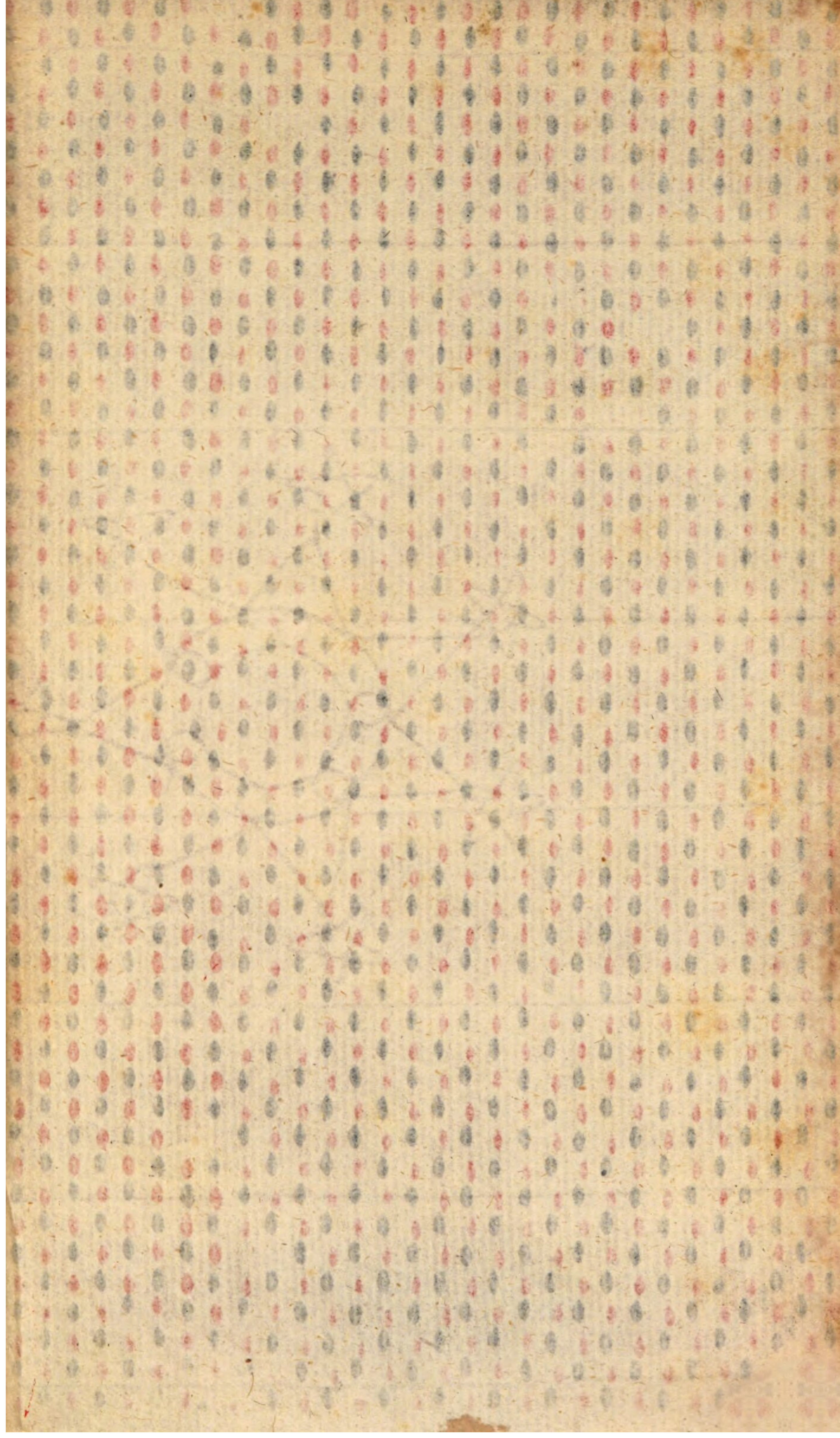
While all men of humanity and com-
 mon fenfe in Great Britain, muft fee and
 deplore the anarchy and confufion which
 have overwhelmed the firft country in
 Europe, in confequence of the proceed-
 ings of thofe who have ufurped fuch au-
 thority over its inhabitants ; it is to be
 hoped we fhall take warning from the ca-
 lamities of our neighbours, and ftrenu-
 oufly refift every attempt of factious and
 interefted men, to overturn or change the
 constitution of this happy country ; in or-
 der

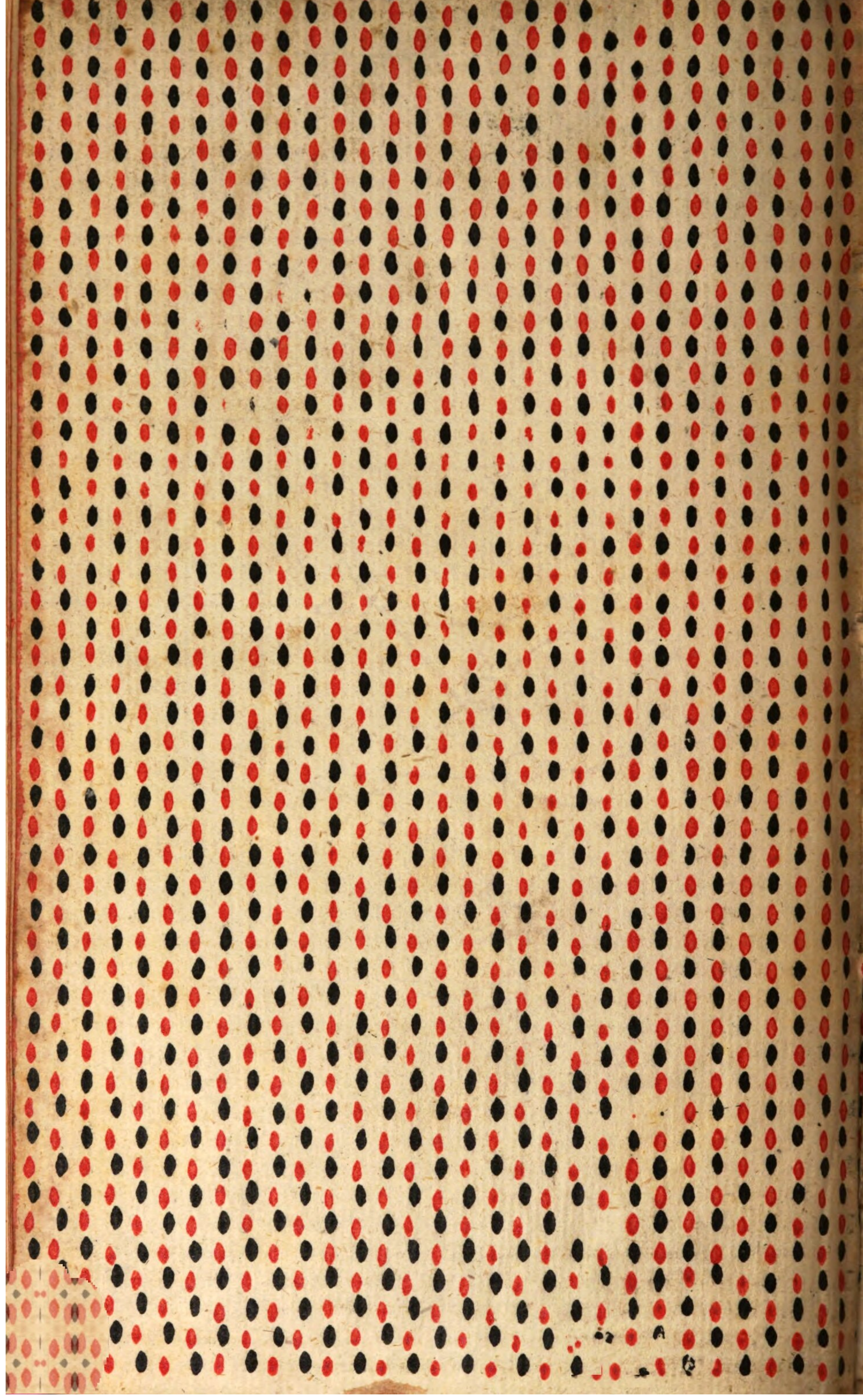
der that they may seize such advantages as may present themselves in the confusion.

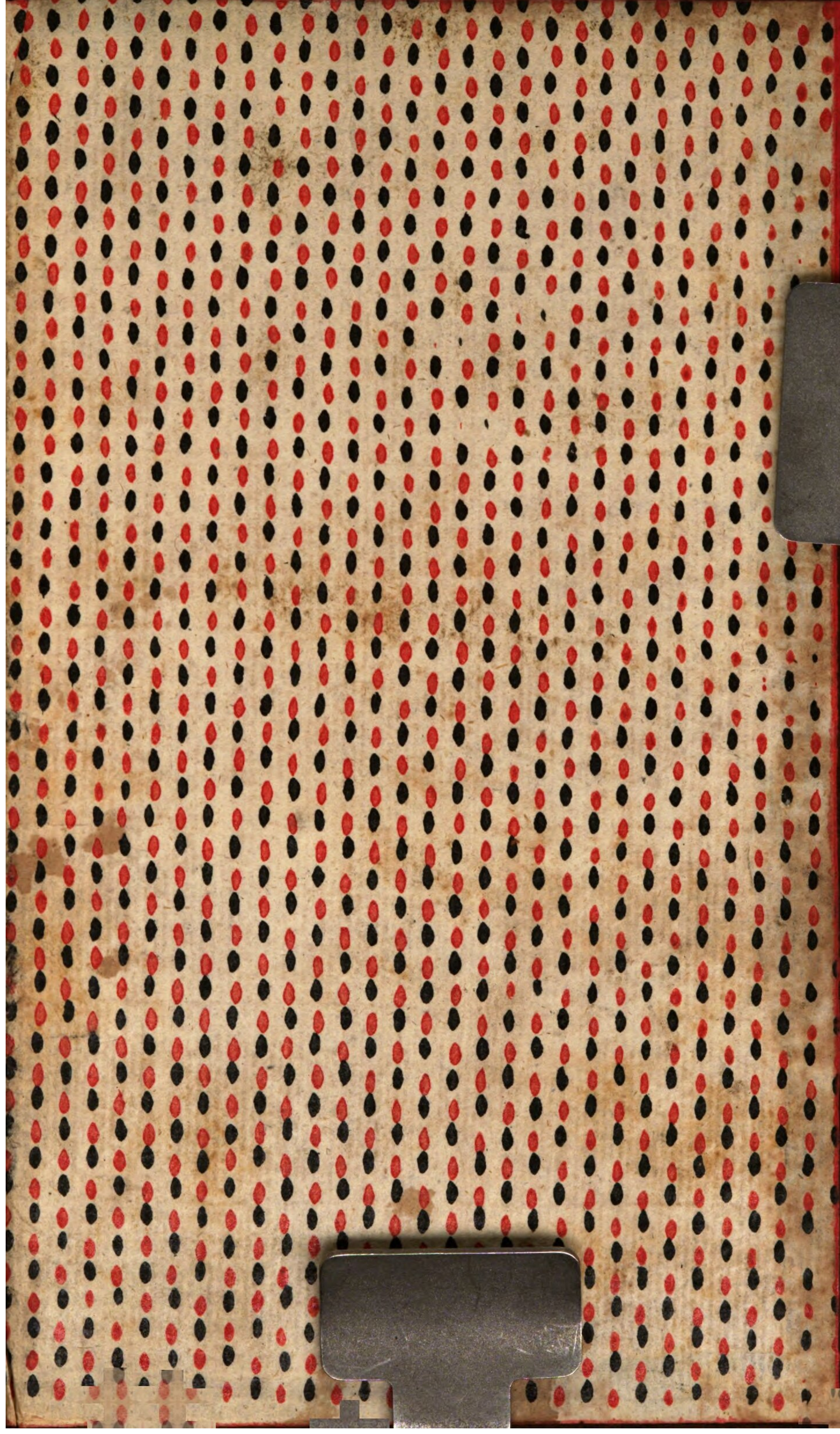
It surely must be a matter of exultation to Britons to reflect, that among the several schemes and plans of reformation of government which have taken place, or are in agitation in different parts of the world, those only which are built on the same foundations as the British constitution, have any probability of being solid and permanent.

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A candid Inquiry into the nature of Government, and the right of
Representation

London 1812 [oder 1792]

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